STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

TRISHA MILNE, Complainant,	)	CASE 9898-U-92-2263
vs.	)	DECISION 4245 - PECB
CITY OF BELLEVUE, Respondent.	)	ORDER OF DISMISSAL

On July 13, 1992, Trisha Milne filed a complaint charging unfair labor practices with the Public Employment Relations Commission, alleging that the City of Bellevue had violated her rights in connection with her layoff.[1] The matter was reviewed by the Executive Director in accordance with WAC 391-45-110,[2] and a preliminary ruling letter issued in the matter on August 10, 1992 pointed out certain defects which precluded further processing of the case.

According to the complaint, two other employees engaged in "concerted activity" on October 28, 1991, by submitting a letter to the director of the Information Service Department of the City of Bellevue, raising issues about certain working conditions. The employer conducted an investigation into the situation, and Milne

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[1] Four employees were named as "complainant" in a single complaint form filed with the Commission. Consistent with Commission docketing practice, a separate case number was assigned to the claim of each individual.

[2] At that stage of the proceedings, all of the facts alleged in a complaint are assumed to be true and provable. The question at hand is whether, as a matter of law, the complaint states a claim for relief available through unfair labor practice proceedings before the Public Employment Relations Commission.

was among the employees who provided information in support of the original letter. The complaint then goes on to allege that supervisory employees began harassing four employees, and that Milne was laid off on March 4, 1992. The complaint alleges that the separation from employment was a result of the harassment by the employer, and was in violation of Chapter 41.56 RCW.

The City of Bellevue and its employees are subject to the Public Employees' Collective Bargaining Act, Chapter 41.56 RCW. That statute was patterned, in large part, after the federal National Labor Relations Act (NLRA). Thus, Section 7 of the NLRA and RCW 41.56.040 both protect the right of employees to organize and to bargain through representatives of their own choosing. The preliminary ruling letter noted, however, that there are significant differences between the federal and state legislation. In particular, while Section 7 of the NLRA specifies that employees have the right to engage in "concerted activities for mutual aid and protection", Chapter 41.56 RCW does not contain such language. Commission precedent holds that the absence of a "concerted activities" clause from Chapter 41.56 RCW must be presumed to have significance, and that an employee's individual action in protesting employment conditions outside of the collective bargaining context is not a protected activity under the state statute. City of Seattle, Decision 489, 489-A (PECB, 1978).

It was clear from the complaint, as filed, that Milne and the other employees who sought to invoke the jurisdiction of the Commission were not represented for the purposes of collective bargaining at the time of the complained-of actions. There was no allegation or basis to infer that they were they in the process of organizing for the purposes of representation or decertification. Therefore, the complained-of actions did not appear to state a cause of action for unfair labor practice proceedings before the Commission.

The preliminary ruling letter gave the complainants a period of 14 days following in which to file and serve amended complaints which stated a cause of action, and informed them that the complaint(s) would be dismissed in the absence of such an amendment.[3] Nothing further has been heard from the complainants.

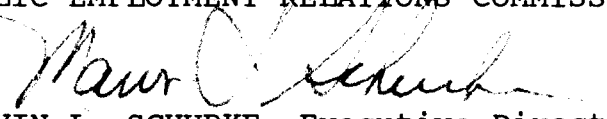
NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices in the above-entitled matter is hereby DISMISSED.

Dated at Olympia, Washington, this 2nd day of December, 1992.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director

This order may be appealed by filing a petition for review with the Commission pursuant to WAC 391-45-350.

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[3] After the preliminary ruling letters had been issued, and the period for response had passed without any response, it was discovered that the copies of the preliminary ruling letter in the Commission's file for each of the cases omitted the main body of the preliminary ruling, which contained the reasoning behind the conclusion that no cause of action existed. Therefore, the full text of the letter, along with an explanation, was sent to each of the complainants on October 26, 1992, and each was given another 14 days in which to file and serve an amended complaint.