

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

WASHINGTON STATE COUNCIL OF)	
COUNTY AND CITY EMPLOYEES,)	
)	CASE 10483-U-93-2427
Complainant,)	
)	
vs.)	DECISION 4561 - PECB
)	
YAKIMA COUNTY,)	
)	ORDER OF DISMISSAL
Respondent.)	
)	
)	

On May 27, 1993, the Washington State Council of County and City Employees filed a complaint charging unfair labor practices with the Public Employment Relations Commission. The allegations of the complaint concerned the employer's refusal to provide information regarding a need to change the days on which employee paydays fell, and the employer's refusal to bargain that change with the exclusive bargaining representative. The complaint claimed that the employer's actions took place in "late 1992".

The complaint was the subject of a preliminary ruling letter issued on July 22, 1993.¹ The preliminary ruling letter noted that it is well settled in numerous cases which have come before the Commission that an exclusive bargaining representative has a right to information reasonably necessary in order for it to carry out its responsibility to represent bargaining unit employees. The letter

¹ At that stage of the proceedings, all of the facts alleged in the 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.

also noted that the Commission has ruled that the time of receipt of pay is a mandatory subject of collective bargaining. City of Anacortes, Decision 1493 (PECB, 1982), AFFIRMED: Decision 1493-C (PECB, 1983). The preliminary ruling letter noted, however, that certain problems existed with the complaint as filed which prevented a determination that a cause of action existed in the matter. RCW 41.56.160 provides that complaints cannot be processed for actions which occurred more than six months prior to the filing of the complaint with the Commission. The complaint would therefore be timely only as to actions occurring on or after November 27, 1992. The letter also noted that it was not possible to discern whether the complaint was in fact timely, given the reference only to "late 1992". The complainant was given a period of 14 days following the date of the preliminary ruling letter in which to file and serve an amended complaint, or face dismissal of its complaint as untimely.

The complainant filed a cover letter and a number of additional documents in support of its complaint on August 5, 1993. The amended complaint is now before the Executive Director for a preliminary ruling in accordance with WAC 391-45-110. There are certain problems with the amended complaint as well.

No dates or any other information have been provided with respect to the union's request for information from the employer. Further, the documents provided by the complainant in support of the allegation that the employer refused to bargain with respect to the proposed change would seem to undermine that very allegation. A memorandum from the employer to its employees under date of October 28, 1992, announces a new system of payroll software, but also notes,

These changes are subject to continuing discussions with the county's various bargaining units and those discussions are under way. In

the interim we will continue providing information on an on-going basis to all employees.

A subsequent memorandum from the employer addressed to "all union presidents/representatives" under date of December 21, 1992, notes,

Please rest assured that a final decision regarding the semi-monthly payroll cycle has not been made. We intend to continue to work with all of you toward a mutual resolution of the payroll cycle decision.

A memorandum from the employer to all union presidents and representatives, dated January 22, 1993, notes that a meeting to discuss the payroll system with them was to be held on January 28, 1993. A memorandum to all county employees, dated January 29, 1993, notes that,

We have had several meetings with representatives of our bargaining units in an effort to share information and solicit input. A result of those discussions is that we should poll our employees for their preference on the monthly vs. semi-monthly payroll options. We have agreed to accept the majority opinion expressed by vote of all employees.

It would appear that a reasonable interpretation of the facts submitted by the union is that the employer not only gave timely notice to the union with respect to a proposed change, but that it also bargained with the union regarding that change. Indeed, it would appear that the parties reached agreement with respect to submitting the matter of a change of paydays to a vote of county employees, and agreed to abide by that vote.

The complaint, as filed, does not state a cause of action for further proceedings.

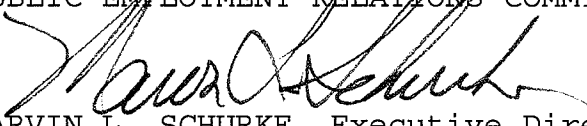
NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices filed in the above-captioned matter is hereby DISMISSED for failure to state a cause of action.

DATED at Olympia, Washington, this 17th day of December, 1993.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

A handwritten signature in dark ink, appearing to read 'Marvin L. Schurke', is written over the printed name below.

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.