

STATE OF WASHINGTON  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

CITY OF PASCO,	)	
	)	
Employer	)	CASE 10825-U-93-2514
-----	)	
CHARLES WICKLANDER,	)	
	)	
Complainant,	)	DECISION 4859 - PECB
	)	
vs.	)	
	)	
INTERNATIONAL UNION OF OPERATING	)	
ENGINEERS, LOCAL 280,	)	
	)	
Respondent.	)	ORDER OF DISMISSAL
	)	
_____	)	

On December 9, 1993, Charles Wicklander filed a complaint charging unfair labor practices with the Public Employment Relations Commission, alleging that the International Union of Operating Engineers, Local 280, had engaged in a number of illegal actions against him arising out of a verbal confrontation involving Wicklander's acting foreman. The complaint was the subject of a preliminary ruling letter issued on May 2, 1994.<sup>1</sup>

The preliminary ruling letter noted several problems with the complaint as filed.

\* Paragraphs 1 through 6 of the complaint appeared to be background to the allegations which followed, rather than being separate allegations in themselves.

---

<sup>1</sup> 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.

\* Paragraph 7 alleged that certain employees were interrogated by the employer as to Wicklander's status as a union steward, during a June 23, 1993 meeting held by the employer and the union. The preliminary ruling letter noted that, as submitted, the allegation did not state a cause of action against the union. The allegation may have contained some hint of collusion between the employer and the union, but it was noted that the preliminary ruling process does not permit the Executive Director to make inferences in the absence of specific factual allegations.

\* Paragraph 8 noted that the union changed its normal methodology of selecting a negotiating committee, with the result that Wicklander was the only union steward who was not selected for the bargaining team. The preliminary ruling letter pointed out that the Commission does not have jurisdiction with respect to internal union affairs, so that this allegation did not state a cause of action.

\* Paragraph 9 alleged that Wicklander's union representative had failed to represent him. The facts alleged were not found to be sufficient to conclude that the union engaged in arbitrary or discriminatory conduct against Wicklander, so this paragraph was not found to state a cause of action.

\* Paragraph 10 alleged that the union acted in collusion with the employer to prevent the filing of grievances. Such an allegation was not found to be sufficiently detailed to state a cause of action.

\* Paragraph 11 alleged that the employer would not pay for Wicklander to attend certain training programs. The preliminary ruling letter noted that this paragraph contained no allegations which would state a cause of action against the union.

\* Paragraph 12 claimed that the union informed Wicklander that the employer and the union were unable to determine what training might be appropriate for street division personnel, thus violating the collective bargaining agreement. It was noted that this paragraph was not sufficiently detailed for a determination to be made that the union had engaged in collusion with the employer

against Wicklander. Further, it appeared that this paragraph might involve a contract interpretation which would be for an arbitrator rather than the Commission to determine.

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 which stated a cause of action, or face dismissal of the complaint. Nothing further has been heard or received from the complainant with respect to this matter.


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 30th day of September, 1994.

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.