

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

CITY OF SEATTLE,	)	
	)	
Employer.	)	
-----	)	
DAVID CORDARO,	)	CASE 11132-U-94-2592
	)	
Complainant,	)	
	)	
vs.	)	DECISION 5034 - PECB
	)	
CARPENTERS UNION, LOCAL 131	)	
	)	
Respondent.	)	PARTIAL ORDER OF DISMISSAL
	)	
_____	)	

On May 20, 1994, David Cordaro filed a complaint charging unfair labor practices with the Public Employment Relations Commission, alleging Carpenters Union, Local 131 (union), had unlawfully attempted to enforce union security obligations, and had discriminated against him for filing charges. Specifically, the complaint alleges the union failed to comply with WAC 391-95-010 at the time the union and the City of Seattle (employer) signed their current collective bargaining agreement. In a preliminary ruling letter dated November 22, 1994, the complainant was notified the complaint failed to state a cause of action, as filed. The complainant was given 14 days to file an amended complaint that would state a cause of action. An extension of time was granted.

On January 4, 1995, Cordaro filed an amended statement of facts. The complaint, as amended, is presently before the Executive Director for a preliminary ruling pursuant to WAC 391-45-110.<sup>1</sup>

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<sup>1</sup> At this 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.

The amended complaint does not allege any facts supporting the allegation the union discriminated against Cordaro for filing charges. That allegation must be dismissed for failure to state a claim for relief which can be granted by the Commission.

The amended complaint appears to challenge the union's attempts to enforce union security obligations against employees other than Cordaro. An individual employee can file a complaint charging unfair labor practices on his or her own behalf, but lacks standing to enforce the rights of other employees. C-TRAN, Decision 4005 (PECB, 1992). To the extent the allegation regarding enforcement of union security obligations purports to assert rights of persons other than Cordaro, the allegation must be dismissed for failure to state a claim for relief which can be granted by the Commission.

The amended complaint alleges the union violated its own constitution by the procedures it used to enforce the union security obligation against Cordaro. The Commission lacks jurisdiction over a union's internal affairs and has no power to enforce a union's constitution.<sup>2</sup> This allegation must be dismissed for failure to state a claim for relief which can be granted by the Commission.

The amended complaint also alleges the union's efforts to enforce its union security clause against Cordaro has been stressful and intimidating for him. The Commission is not a court of general jurisdiction, and has no power to entertain tort claims.<sup>3</sup> This allegation must be dismissed for failure to state a claim for relief which can be granted by the Commission.

Finally, the amended complaint alleges the union interfered with Cordaro's rights by attempting to collect union dues accrued before the union had provided Cordaro with a copy of its collective

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<sup>2</sup> Clover Park School District, Decision 3829 (PECB, 1991).

<sup>3</sup> City of Bremerton, Decision 976 (PECB, 1980).

bargaining agreement with the employer. Union security clauses can be legal,<sup>4</sup> and are customarily enforced through demands for termination. Unions seeking enforcement of union security obligations owe a fiduciary duty of fair treatment which at least includes prior notice of the obligation and the consequences of a failure to comply. City of Seattle, Decision 3835 (PECB, 1991); WAC 391-95-010. This allegation does state a cause of action.

NOW, THEREFORE, it is

ORDERED

1. The allegation that the union discriminated against Cordaro for filing charges is DISMISSED for failure to state a cause of action.
2. The allegation that the union interfered with the rights of any employee other than Cordaro is DISMISSED for failure to state a cause of action.
3. The allegation that the union violated its constitution by the manner in which it enforced the union security obligation against Cordaro is DISMISSED for failure to state a cause of action.
4. The allegation that the union interfered with Cordaro's rights by causing him to suffer emotional stress is DISMISSED for failure to state a cause of action.
5. The allegation that the union interfered with Cordaro's rights by attempting to enforce the union security obligation for

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<sup>4</sup> See, Pierce County, Decision 1840-A (PECB, 1985), and RCW 41.56.122(1).

dues accrued before it complied with the requirements of WAC 391-95-010 state a cause of action. The employer shall:

**File and serve its answer to the complaint within 21 days following the date of this letter.**

Except for good cause shown, a failure to file an answer within the time specified, or the failure of an answer to specifically deny or explain a fact alleged in the complaint, will be deemed to be an admission that the fact is true as alleged in the complaint under WAC 391-45-210, and as a waiver of a hearing as to the facts so admitted. An answer filed by a respondent shall:

A. Specifically admit, deny or explain each of the facts alleged in the complaint, except if the respondent is without knowledge of the facts, it shall so state, and that statement will operate as a denial.

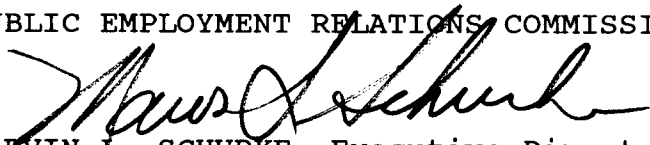
B. Specify whether "deferral to arbitration" is requested, and include a copy of the collective bargaining agreement and other grievance documents on which a "deferral" request is based.

C. Assert any other affirmative defenses that are claimed to exist in the matter.

The original answer and three copies shall be filed with the Commission at its Olympia office. A copy of the answer shall be served, on the same date, on David Cordaro.

Issued at Olympia, Washington on the 10th day of March, 1995.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

  
MARVIN L. SCHURKE, Executive Director

Paragraphs 1, 2, 3, and 4 of this order may be appealed by filing a petition for review with the Commission pursuant to 391-45-350.