

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

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| TEAMSTERS UNION, LOCAL 252, |) | |
| |) | CASE 11568-U-95-2708 |
| Complainant, |) | |
| |) | |
| vs. |) | DECISION 5040 - PECB |
| |) | |
| CITY OF CHEHALIS, |) | |
| |) | |
| Respondent. |) | ORDER OF DISMISSAL |
| |) | |
| |) | |

The complaint charging unfair labor practices was filed in the above-captioned matter on February 1, 1995. The allegations concern the employer's unilateral implementation of salary changes beginning during or about November of 1993.

In a preliminary ruling letter issued pursuant to WAC 391-45-110 on February 22, 1995, the Executive Director noted that the complaint did not appear to be timely filed under RCW 41.56.160. That statute provides that the Commission shall not process any unfair labor practice complaint occurring more than six months before the filing of the complaint. The Commission has held that the clock begins to run when the adverse employment decision is made and communicated to the employee. The Commission has extended the six month time limit only where it can be demonstrated that the complainant did not have actual or constructive knowledge of the acts or events which are the basis of the charge. Spokane County, Decision 2377 (PECB, 1986); City Of Dayton, Decision 2111-A (PECB, 1986). The Commission's precedents in this area are consistent with the rulings of the National Labor Relations Board under the similar period of limitations in the federal law. See, U.S. Postal Service, 271 NLRB 397 (1984); Metromedia, Inc., 232 NLRB 76 (1977), 586 F.2d 1182 (8th Circuit, 1978); and ACF Industries, Inc., 231 NLRB 83 (1977), 592 F.2d 422 (8th Circuit, 1979).

In this case, the complaint alleges that Teamsters Local 252 is the successor (by merger in November of 1994) to an independent labor organization known as the Chehalis Employees Association. As such, Local 252 may be the beneficiary of certain contractual rights of the former organization, but is also bound and burdened by any inaction on the part of that organization.

The complaint alleges that employees noted discrepancies in their pay raises as early as November of 1993, and that they discussed the matter at that time with the employer's payroll clerk. The complaint next alleges that other employees noted discrepancies in their pay checks in July of 1994, and that the matter was again discussed with the employer's payroll clerk. Thus, it appears from within the four corners of the complaint that the employees knew of these wage rate disputes more than six months before the complaint charging unfair labor practices was filed. Since employees receive salary statements at least monthly, there is insufficient basis to proceed on a bare allegation that their former union did not discover the matter earlier.

The complaint goes on to allege that Local 252 discovered around December 1, 1994, that the action unfavorable to the employees was made and announced at an open public meeting of the employer's city council held on December 27, 1993. There is no indication in this complaint that the employer attempted to conceal its actions. Thus, it also appears from within the four corners of the complaint that the former exclusive bargaining representative knew or should have known of the disputed policy more than six months before this complaint was filed.

The preliminary ruling letter provided the union a period of 14 days in which to file and serve an amended complaint which stated a cause of action sufficient to warrant further proceedings before the Commission. Nothing further has been heard or received from the union on this matter.

NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices in the above captioned matter is DISMISSED as untimely filed.

ISSUED at Olympia, Washington, this 17th day of March, 1995.

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.