

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

WASHINGTON STATE COUNCIL OF COUNTY )	)	
AND CITY EMPLOYEES, LOCAL 2083, )	)	
Complainant, )	)	CASE 10388-U-93-2391
vs. )	)	
SEATTLE PUBLIC LIBRARY, )	)	DECISION 5068 - PECB
Respondent. )	)	
_____ )	)	ORDER OF DISMISSAL
	)	

Mark H. Sidran, City Attorney, by Cathy Parker, Assistant City Attorney, appeared for the respondent.

Audrey Eide, General Counsel, appeared on behalf of the complainant.

On April 5, 1993, the Washington State Council of County & City Employees (WSCCCE) filed a complaint charging unfair labor practices with the Public Employment Relations Commission, alleging that the Seattle Public Library had violated RCW 41.56.140(1) and (4). Specifically, the union contended that the employer engaged in an unlawful "skimming" of bargaining unit work, by using vendors to perform work previously done by members of the bargaining unit.

The above-referenced matter was deferred to arbitration on January 28, 1994. Deferral does not require the concurrence of both parties. City of Richland, Decision 246 (PECB, 1977). Under the policy enunciated by the Commission in City of Yakima, Decision 3564-A (PECB, 1991), a determination by an arbitrator that the employer conduct at issue in an unfair labor practice case was either protected or prohibited by the collective bargaining agreement will generally dispose of the unfair labor practice allegations. Only an arbitration award indicating the parties' collective bargaining agreement was silent on the subject would warrant further proceedings in the unfair labor practice case.

A deferred unfair labor practice case will be dismissed on "lack of prosecution" grounds in the absence of the parties taking steps to arbitrate the underlying grievance. In this case, over a year has passed since the matter was deferred to arbitration. The Commission has not been supplied with a copy of an arbitrator's award, or even any indication that the parties have taken affirmative steps to arbitrate the matter. Those facts supported an inference that the union has abandoned its grievance or that the matter has been resolved by the parties, and the parties were given a period of time to apprise the Commission as to why the case should not be dismissed on the basis that prosecution of the case had been abandoned.

The directive to show cause was issued on March 15, 1995, and provided a 14-day period for a response. Nothing further has been heard or received from any party.

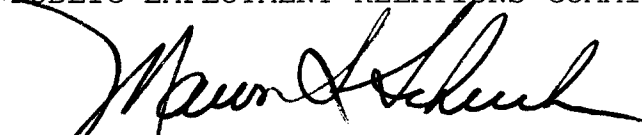
NOW, THEREFORE, it is

ORDERED

The unfair labor practice case in the above-captioned matter is DISMISSED.

DATED at Olympia, Washington this 7th day of April, 1995

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARWIN I. SCHURKE, Executive Director

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