

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

CITY OF SEATTLE,)	
)	
Employer.)	
-----)	
DAVID CORDARO,)	CASE 11146-U-94-2596
)	
Complainant,)	
)	
vs.)	DECISION 5064 - PECB
)	
CARPENTERS UNION, LOCAL 131,)	
)	
Respondent.)	ORDER OF DISMISSAL
)	
_____)	

On May 27, 1994, David Cordaro filed a complaint charging unfair labor practices with the Public Employment Relations Commission, alleging that Carpenters Union, Local 131 (union) had unlawfully requested the City of Seattle (employer) to discharge him for non-payment of dues. Specifically, the complaint alleged the union ignored Cordaro's request for non-association under RCW 41.56.122 and Chapter 391-95 WAC, both when he made that request in 1991 and when the union attempted to enforce the union security obligation in 1994.

Union security provisions can be lawful and enforceable under the Public Employees' Collective Bargaining Act, Chapter 41.56 RCW. An employee has legal standing, however, to file unfair labor practice charges to protest either an unlawful union security arrangement or enforcement of a lawful union security provision in an unlawful manner.

RCW 41.56.160 limits the processing of unfair labor practices to complaints filed within six months following the disputed action. The statement of facts indicates that Cordaro asserted a religious-based right of non-association under RCW 41.56.122 and Chapter 391-

95 WAC back in 1991, and that the union did not make the response required by WAC 391-95-050 at that time. The events occurring in 1991 are clearly beyond the time limitation of RCW 41.56.160, and could not be the basis for a remedy in this case.

The statement of facts next alleges that Cordaro has not received information concerning his union security obligations since the employer and union signed a new contract in 1992. Chapter 391-95 WAC obligates a union to provide information to affected employees if it seeks to enforce a union security obligation against them. No cause of action exists, however, in the absence of enforcement action. This information is taken to be background for the allegation which follows.

Paragraph 4 of the statement of facts alleges that the union began to enforce what it believed to be Cordaro's union security obligations in April of 1994. A search of the Commission's docket records failed to disclose a "right of non-association" case filed by or concerning Mr. Cordaro under Chapter 391-95 WAC in 1994 or 1995. Notes on the Commission's file indicate a possibility that the union may have misunderstood the basis for Cordaro's refusal to pay union dues, and that the dispute may have been resolved by the parties since this case was filed.¹

The complaint was considered by the Executive Director under WAC 391-45-110.² In a preliminary ruling letter dated March 3, 1995,

¹ The notes indicate that Cordaro called the Commission's office in the autumn of 1994, when his discharge for non-payment of his union security obligations was imminent, and that Cordaro was going to remind the union of the "religious" basis for his refusal to pay union dues.

² 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.

Cordaro was advised the complaint would be held open for 14 days to permit the filing and service of an amended complaint which demonstrated the existence of an ongoing dispute. Nothing further has been heard or received from Cordaro. Under these circumstances, the case must be dismissed for lack of prosecution.

NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices filed in the above-entitled matter is hereby DISMISSED.

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