

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

WASHINGTON STATE COUNCIL OF COUNTY )	
AND CITY EMPLOYEES, AFSCME, )	
Complainant, )	CASE 11538-U-95-2701
vs. )	DECISION 5033 - PECB
CITY OF EVERETT, )	
Respondent. )	ORDER CLOSING CASE

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On January 18, 1995, Washington State Council of County and City Employees, AFSCME, filed a complaint charging unfair labor practices with the Public Employment Relations Commission, alleging that the employer unilaterally implemented a Sick Leave Administration Policy on July 15, 1994, without bargaining in good faith with the union over the new policy.

A preliminary ruling letter directed to the parties on February 17, 1995, advised them that certain problems existed with the complaint, as filed.<sup>1</sup> Specifically, it was noted that from the facts provided, it appeared that the complaint was untimely under the RCW 41.56.160(1), which provides:

The commission is empowered and directed to prevent any unfair labor practice and to issue appropriate remedial orders: PROVIDED, That a complaint shall not be processed for any unfair labor practice occurring more than six months before the filing of the complaint with the commission.

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<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.

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 its complaint.

The complainant filed a timely response to the Commission's request for additional information. However, the union's response indicates it knew by late November or December of 1994 that a resolution of the dispute could not be forthcoming, yet still failed to file its unfair labor practice until mid-January. The complainant does not assert that the employer's alleged unilateral change occurred within six months prior to the filing of the complaint.

NOW, THEREFORE, it is

ORDERED

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

DATED at Olympia, Washington, this 10th 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.