

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

LINDA CHADWICK,)	
)	
Complainant,)	CASE 11313-U-94-2648
)	
vs.)	DECISION 5076 - PECB
)	
PORT OF SEATTLE,)	
)	
Respondent.)	ORDER OF DISMISSAL
)	
)	

On July 15, 1994, Linda Chadwick filed a complaint charging unfair labor practices with the Public Employment Relations Commission, alleging that the Port of Seattle had violated RCW 41.56.140.¹ A preliminary ruling letter was issued on March 10, 1995, pursuant to WAC 391-45-110.² The parties were advised that certain problems existed with Chadwick's complaint against the employer, as filed. 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 the complaint. Nothing further has been heard or received from the complainant.

¹ The extensive documents filed by Chadwick on July 15, 1994 actually included charges against both the employer and union, but that fact was not discerned immediately. Once the existence of dual respondents was realized, this case was docketed for the charges against the employer, and Case 11240-U-94-2629 was limited to the charges against the union.

² 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 the law, the complaint states a claim for relief available through unfair labor practice proceedings before the Public Employment Relations Commission.

DISCUSSION

In her complaint against the employer, Chadwick alleged that she had been, in her own words:

[D]iscriminated against, ... continually exposed to hostile work environment that Port Management was aware of, Instances of deliberate and demeaning (and illegal) radio transmissions were directed toward me by other Port employees. ... that the Port of Seattle ... did knowingly and willingly violate the terms of the negotiated agreement under Article II, Article III, Article VII, Article X, Article XXIII, and Article XXVI, as they apply to bargaining unit recognition, my employment, sex discrimination, previously agreed upon selective certification, past practices, and personnel records.

The documents filed with the Commission include a "Chronology of Events Involving Port of Seattle, and My Employment" which was examined carefully to determine if it presented facts sufficient to support a conclusion that an unfair labor practice could be found.

Since the complaint was filed on July 15, 1994, incidents related in the chronology prior to January 15, 1994 can only be considered as general information or background.³

While the complainant alleged "discriminatory acts" and an "unwillingness to continue the past practice of supporting the previously agreed upon selective certification", the complaint did not provide

³ RCW 41.56.160 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.**

specific dates, times, and places where such events occurred, and did not identify exactly what unlawful acts were alleged to have taken place. Such details are required by WAC 391-45-050(3).

Much of the documentation provided by Chadwick related to allegations of discrimination on the basis of sex, maintenance of a hostile work environment, failure to provide affirmative action, and scheduling of work and promotions in contravention of "Title VII". The Commission does not have or assert jurisdiction in such matters. City of Seattle, Decision 205 (PECB, 1977). Rather, the Commission's jurisdiction is limited to the resolution of collective bargaining disputes between employers, employees and unions. An employee may have relief available under statutes and regulations administered by federal agencies or other state agencies, but must pursue those rights in those forums.⁴

To the extent that some of the allegations assert that there have been violations of the terms of a negotiated collective bargaining agreement, they also fail to state a cause of action. The Public Employment Relations Commission does not assert jurisdiction to remedy violations of collective bargaining agreements through the unfair labor practice provisions of the statute. City of Walla Walla, Decision 104 (PECB, 1976).

From the "Chronology", the only allegation which appeared to be timely and to potentially involve a matter within the jurisdiction of the Commission involved the recall of Chadwick from a layoff.⁵

⁴ The name "Public Employment Relations Commission" is sometimes interpreted as implying a broader scope of authority than is actually conferred upon the agency. The agency does not have authority to resolve each and every dispute that might arise in public employment.

⁵ It appears that Chadwick was not called back to work in March and April of 1994, when other employees were called back from a layoff. Chadwick was recalled in May of 1994, but was then laid off again on June 17, 1994.

Upon close examination, however, nothing is found which suggests that the employer discriminated against Chadwick on the basis of her pursuit of activities protected by Chapter 41.56 RCW (e.g., filing grievances, other union activity, or refraining from union activity).⁶ Even where timely and specific, allegations that only relate to forms of discrimination outside of the collective bargaining process must be dismissed.

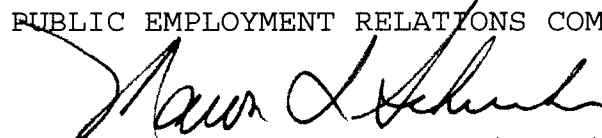
NOW, THEREFORE, it is

ORDERED

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

DATED at Olympia, Washington, this 9th day of May, 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.

⁶ It appears a grievance meeting on this issue was held on June 23, 1994. A June 29, 1994 letter from Local 9 suggests that Chadwick eventually filed a grievance concerning the return of x-ray controllers by seniority rather than by selective certification based upon gender (her position). The complaint does not assert, however, that grievance was a basis for delaying her recall.