

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

INTERCITY TRANSIT,)	
)	
Complainant,)	CASE 11996-U-95-2817
)	
vs.)	
)	DECISION 5347 - PECB
INTERNATIONAL ASSOCIATION OF)	
MACHINISTS AND AEROSPACE WORKERS,)	
DISTRICT 160,)	ORDER OF DISMISSAL
)	
Respondent.)	
)	

On August 25, 1995, International Association of Machinists and Aerospace Workers, District 160, filed a complaint charging unfair labor practices with the Public Employment Relations Commission, alleging that Intercity Transit interfered with employee rights and refused to bargain by withholding wage increases provided for in its personnel manual. The complaint alleged the employer took this action because of the pendency of an interest arbitration proceeding in which wages are an issue.

A preliminary ruling letter issued on October 5, 1995, pursuant to WAC 391-45-110,¹ indicated it was impossible to determine from the facts alleged in the complaint whether a cause of action existed. It was noted that the employer is obligated to maintain the status quo in order to avoid violating RCW 41.56.470, and that it was impossible to determine whether these were general increases or step increases. Under the rationale of Snohomish County Fire District, Decision 4336-A (PECB, 1994), the employer is prohibited

¹ At this stage in 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.

from making any change in the general wage rates during the pendency of interest arbitration. Absent an allegation that the wage increases withheld were step increases, the parties were advised that there would be no basis to conclude that the facts alleged, if proved, would establish a violation of the statute.

The complainant was given a period of 14 days in which to file and serve an amended complaint, or face dismissal of the case. No response has been forthcoming from the complainant, and the matter is again before the Executive Director for preliminary ruling. In view of the failure to amend the ambiguous complaint, it must be assumed that the allegations do not relate to the withholding of step increases. With that interpretation, no violation of the statute can be predicated upon the facts alleged in the complaint.

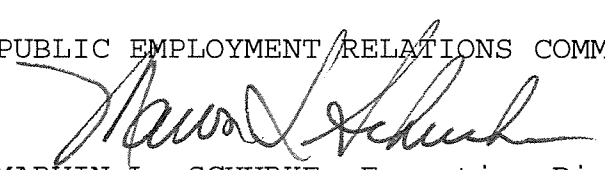
NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices filed in the above captioned matter is DISMISSED for failure to state a cause of action.

DATED at Olympia, Washington, this 8th day of November, 1995.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director

This order will be the final order of the agency unless appealed by filing a petition for review with the Commission pursuant to WAC 391-45-350.