

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

HIGHLINE SCHOOL DISTRICT,)	
)	
Employer,)	
-----)	
KURT DEITCH,)	CASE 11793-U-95-2775
)	
Complainant,)	DECISION 5228 - PECB
)	
vs.)	
)	
PUBLIC SCHOOL EMPLOYEES)	
OF WASHINGTON,)	ORDER OF DISMISSAL
)	
Respondent.)	
)	

On January 22, 1995, Kurt Deitch filed a complaint charging unfair labor practices with the Public Employment Relations Commission, alleging that Public School Employees of Washington (PSE) denied him the right to select his own representative for a hearing before a PSE grievance appeal panel, that the representative assigned was inactive or ineffective, that previous briefings of the panel made the hearing unfair, and that a change of the union's bylaws resulted in denial of the grievance. The essence of the complaint appears to be "breach of the duty of fair representation".¹

In a preliminary ruling letter issued on July 11, 1995, pursuant to WAC 391-45-110,² Deitch was notified that the complaint failed to

¹ This case concerns the processing of a grievance under a collective bargaining agreement between PSE and the Highline School District. The employer was not named as a respondent, and has not participated in the proceedings before the Commission.

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

state a cause of action, and gave him a period of 14 days in which to file and serve an amended complaint. Nothing further has been heard or received from the complainant.

Breach of Duty of Fair Representation

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). In that context, the Commission does not assert jurisdiction over "breach of duty of fair representation" claims arising exclusively out of the processing of contractual grievances. Mukilteo School District (Public School Employees of Washington), Decision 1381 (PECB, 1982). Such claims must be presented to a court having jurisdiction to determine and remedy any underlying contract violation.

Internal Union Affairs

The Public Employees' Collective Bargaining Act, Chapter 41.56 RCW, is patterned generally after the National Labor Relations Act (NLRA), as amended by the Labor-Management Relations Act of 1947 (the Taft-Hartley Act). Like the NLRA, Chapter 41.56 RCW regulates relationships between employers and employees, and regulates relationships between employers and the organizations representing their employees, but does very little in the arena of regulating the internal affairs of labor organizations.³ To the extent that the complaint alleges that Deitch had a right to be represented by a person of his own choosing before the PSE state grievance panel, that the panel was prejudiced, or that the union bylaws were improperly amended, those appear to be matters of internal union

³ Internal union affairs are regulated at the federal level by the Labor-Management Reporting and Disclosure Act of 1959 (the Landrum-Griffin Act), which has no counterpart in Washington state law.

affairs. The Commission has declined to assert jurisdiction to regulate the internal affairs of unions, in the absence of any specific authority to do so under Chapter 41.56 RCW. Lewis County, Decision 464-A (PECB, 1978); King County, Decision 4253 (PECB, 1992).


NOW, THEREFORE, it is

ORDERED

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

DATED at Olympia, Washington, this 16th day of August, 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.