

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

SOUTH KITSAP SCHOOL DISTRICT,)	
)	
Employer.)	
-----)	
JOYCE L. JUSTICE,)	
)	
Complainant,)	CASE 12033-U-95-2827
)	
vs.)	DECISION 5369 - PECB
)	
SERVICE EMPLOYEES INTERNATIONAL)	
UNION, LOCAL 6,)	ORDER OF DISMISSAL
)	
Respondent.)	
-----)	
JOYCE L. JUSTICE,)	
)	
Complainant,)	CASE 12034-U-95-2828
)	
vs.)	DECISION 5370 - PECB
)	
SOUTH KITSAP SCHOOL DISTRICT,)	
)	ORDER OF DISMISSAL
Respondent.)	
-----)	

Joyce L. Justice filed a complaint charging unfair labor practices with the Public Employment Relations Commission on September 12, 1995, citing violations of both RCW 41.56.140 and 41.56.150. Two separate cases were docketed, as follows: Service Employees International Union, Local 6, was designated as the respondent in Case 12033-U-95-2827; the South Kitsap School District was designated as the respondent in Case 12034-U-95-2828. The allegations concern problems relating to medical insurance coverage under a provision of the collective bargaining agreement between the employer and the union.

The two cases were considered together by the Executive Director, for the purpose of making preliminary rulings pursuant to WAC 391-

45-110.¹ In a letter issued on July 12, 1995, the complainant was notified that her complaints did not appear to be timely filed. The events described in the complaint date back to an industrial injury suffered by the complainant in March of 1993. It thus appeared that the complaints were filed approximately 17 months after the employee had notice of the situation. RCW 41.56.160 provides that the Commission cannot process any unfair labor practice complaint for events occurring more than six months before the filing of the complaint. The clock begins to run when the adverse employment decision is made and communicated to the employee, and the six month time limit has been extended only where it can be demonstrated that the complainant did not have actual or constructive knowledge of the acts or events which are the basis of the charge. Spokane County, Decision 2377 (PECB, 1986); City Of Dayton, Decision 2111-A (PECB, 1986). The Commission's precedents in this area are consistent with the rulings of the National Labor Relations Board under the similar limitations in the federal law. See, U.S. Postal Service, 271 NLRB 397 (1984); Metromedia, Inc., 232 NLRB 76 (1977), 586 F.2d 1182 (8th Circuit, 1978); and ACF Industries, Inc., 231 NLRB 83 (1977), 592 F.2d 422 (8th Circuit, 1979). The fact that an industrial insurance claim remained open before the Department of Labor and Industries into September of 1995 does not negate the employee's indicated knowledge of the insurance controversy "about a month" after the injury.

The complainant was allowed a period of 14 days in which to file and serve an amended complaint which stated a cause of action. Nothing further has been heard or received from the complainant on these matters.

¹ 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.

NOW, THEREFORE, it is

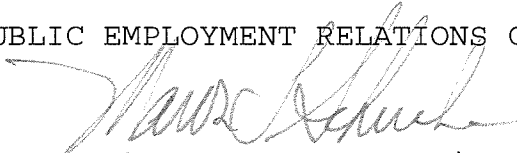
ORDERED

1. DECISION 5369 - PECB (CASE 12033-U-95-2827): The complaint charging unfair labor practices filed in this matter against Service Employees International Union, Local 6 is DISMISSED as untimely filed.

2. DECISION 5370 - PECB (CASE 12034-U-95-2828): The complaint charging unfair labor practices filed in this matter against South Kitsap School District is DISMISSED as untimely filed.

ISSUED at Olympia, Washington, this 17th 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.