

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

ROBERT DOWD,)	
)	
Complainant,)	CASE 12706-U-96-3044
)	
vs.)	DECISION 5744 - PECB
)	
CITY OF SEATTLE,)	
)	
Respondent.)	ORDER OF DISMISSAL
)	
)	

Robert Dowd filed a complaint charging unfair labor practices with the Public Employment Relations Commission on September 16, 1996. The City of Seattle was identified as the employer. The Seattle Center and its director, Virginia Anderson, were named as respondent. The complaint was reviewed for the purpose of making a preliminary ruling pursuant to WAC 391-45-110,¹ and a deficiency notice issued on October 14, 1996, pointed out several problems with the complaint as filed. Dowd was given 14 days in which to file and serve an amended complaint which stated a cause of action, or face dismissal of the case. Nothing further has been heard or received from Dowd.

Individual as Respondent

Every case processed by the Commission must arise out of an employment relationship involving a covered employer. While the

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

City of Seattle is a public entity covered by RCW 41.56.020, there is no apparent circumstance under which the employer official named in the complaint could be the "respondent" in an unfair labor practice proceeding before the Commission, except in her capacity as an agent of the covered employer. The case was thus docketed with "City of Seattle" as the respondent.

Insufficient Documentation

The complaint seemed to allege violation of an existing collective bargaining agreement between the City of Seattle and Service Employees International Union, Local 6, but the only contract provided with the complaint expired on December 31, 1994. Dowd was thus advised that a copy of a more recent or "current" collective bargaining agreement would be needed for processing of this case.

No "Violation of Contract" Cause of Action

Even if a current collective bargaining agreement would have been supplied, the deficiency notice pointed out that 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). Contract violation claims must be pursued through the grievance and arbitration procedures set forth in the contract, or through the courts.

No "Refusal to Bargain" Cause of Action

The complaint alleged unilateral actions by the employer, in regard to procedural changes not agreed to by the union and changed minimum hour requirements. While unilateral changes are generally forbidden as "refusal to bargain" conduct under RCW 41.56.140(4), the duty to bargain only exists between an employer and the union which holds status as the exclusive bargaining representative of

the employees involved. Any cause of action is limited to matters which the complainant has legal standing to pursue. Although Dowd used the title "Union Steward SEIU Local Six" under his signature on the complaint, SEIU Local 6 was not named as the complainant and has not come forward to substitute itself as complainant. To the extent that Dowd filed as an individual (who happened to hold union office), he did not have any standing to pursue rights on behalf of employees other than himself. Only the union itself would have had standing to file or pursue such allegations. C-Tran, Decision 4005 (PECB, 1992).


NOW, THEREFORE, it is

ORDERED

The complaint filed in the above-captioned matters is DISMISSED as failing to state a cause of action.

ISSUED at Olympia, Washington, on the 6th day of November, 1996.

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.