

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

AMALGAMATED TRANSIT UNION,	)	
DIVISION 757,	)	
Complainant,	)	CASE 12617-U-96-3005
vs.	)	DECISION 5651 - PECB
C-TRAN,	)	
Respondent.	)	PARTIAL ORDER OF DISMISSAL
	)	
	)	

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On July 26, 1996, Amalgamated Transit Union, Division 757 filed a complaint charging unfair labor practices with the Public Employment Relations Commission, alleging that C-Tran had committed a number of actions in violation of Chapter 41.56 RCW. Specifically, the complaint alleged that the employer had (1) refused to proceed to arbitration on a grievance; and, (2) retaliated against the employee because the employee sought union assistance.

On August 19, 1996, a preliminary ruling letter was issued in the matter.<sup>1</sup> A cause of action was found to exist with respect to the allegation regarding retaliation. With respect to the other allegations, the preliminary ruling letter stated that the Commission does not assert jurisdiction to remedy violations of collective bargaining agreements. 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 with respect to allegations concerning the employer's refusal to process a grievance to arbitration, or face dismissal of those allegations.

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<sup>1</sup> 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.

On August 26, 1996, the complainant informed the Commission that it would not be filing an amended complaint and requested that the Commission issue an order dismissing these allegations.

NOW, THEREFORE, it is

ORDERED

1. The allegation regarding the refusal of the employer to process a grievance into arbitration is DISMISSED for failure to state a cause of action as filed.
2. William A. Lang of the Commission staff is designated as Examiner to conduct further proceedings consistent with the allegation regarding the retaliation against an employee for seeking union assistance.
3. Pursuant to WAC 391-45-110(2), C-Tran shall:  
**File and serve its answer to the complaint within 21 days following the date of this order.**
  - a. An answer filed by the respondent shall:
    - i. Specifically admit, deny or explain each of the facts alleged in the complaint, except if the respondent is without knowledge of the facts, it shall so state, and that statement will operate as a denial.
    - ii. Specify whether "deferral to arbitration" is requested, and include a copy of the collective bargaining agreement and other grievance documents on which a "deferral" request is based.
    - iii. Assert any other affirmative defenses that are claimed to exist in the matter.
  - b. The original answer and one copy shall be filed with the Commission at its Olympia office. A copy of the answer shall be served, on the same date, on the attorney or

principal representative of the person or organization that filed the complaint.

- c. Except for good cause shown, a failure to file an answer within the time specified, or the failure of an answer to specifically deny or explain a fact alleged in the complaint, will be deemed to be an admission that the fact is true as alleged in the complaint, and, as a waiver of a hearing as to the facts so admitted. WAC 391-45-210.

ISSUED at Olympia, Washington, on the 30th day of August, 1996.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director

Paragraph 1 of this order may be appealed by filing a petition for review with the Commission pursuant to WAC 391-45-350.