

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

GARY L. MINOR,	)	
	)	
Complainant,	)	CASE 12531-U-96-2980
	)	
vs.	)	DECISION 5657 - PECB
	)	
CITY OF REDMOND,	)	
	)	
Respondent.	)	ORDER OF DISMISSAL
	)	
	)	

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On June 4, 1996, Gary L. Minor filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, alleging that the City of Redmond has discriminated against him. The complaint was reviewed under WAC 391-45-110,<sup>1</sup> and a letter issued on June 19, 1996, advised the parties of a number of problems with the complaint as filed. The complainant was given a period of 14 days in which to file and serve an amended complaint, or face dismissal of the case. Nothing further has been heard or received from the complainant.

Jurisdictional Problems

The complaint identifies Gary Minor as a police officer employed by the City of Redmond. Those parties would thus come within the coverage of the Public Employees' Collective Bargaining Act, Chapter 41.56 RCW. The Public Employment Relations Commission

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<sup>1</sup> 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.

administers that statute, but the name of the agency is sometimes misunderstood as implying a broader scope of authority than is actually conferred upon the agency by statute. The Commission is not a court of general jurisdiction, even within the sphere of "employment relations", and does not have authority to resolve each and every dispute that might arise in public employment.

The first attachment to the complaint filed in this case is a copy of a "Charge of Discrimination" form which Minor filed with the Washington State Human Rights Commission (HRC). The Public Employment Relations Commission does not assert jurisdiction in matters that would properly be brought before either the HRC or the federal Equal Employment Opportunities Commission. Thus, allegations concerning violations of the Americans With Disabilities Act and/or the Washington Law Against Discrimination do not state claims for relief available through unfair labor practice proceedings under Chapter 41.56 RCW and Chapter 391-45 WAC.

The complainant alleges violations of the employer's "Manual of Standards", but the Public Employment Relations Commission has no jurisdiction to determine or remedy violations by an employer of its own internal procedures. Such matters would have to be pursued under dispute resolution mechanisms established by the employer, or through the courts.

The complainant alleges violations of the collective bargaining agreement between the City of Redmond and the Redmond Police Officer's Association, which is applicable to Minor's employment. 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). Such matters would have to be pursued through grievance and arbitration machinery established within the collective bargaining agreement, or through the courts.

Reprisals for Activity Protected by Chapter 41.56 RCW

The complaint alleges, generally, that Minor was disciplined by the employer and suffered violations of his rights under various statutes commencing in November of 1995, in retaliation for his having filed a complaint with his union against the employer in October of 1995. The letter issued on June 19, 1996, pointed out that this complaint filed on June 4, 1996, could only be considered timely under RCW 41.56.160 for actions and events on and after December 4, 1995. Actions in October and November of 1995 could only be taken as background to more recent actions.

The complaint goes on to allege, again only generally, that the employer agent launched an investigation during November and December 1995, with intent to have criminal charges brought against the complainant. Particularly, the complainant alleges that he was interrogated by the employer agent on December 12, 1995, in the presence of a union representative, and compelled to provide information demanded by the employer. The complainant was told he would receive a one-day suspension for conduct which was the subject of the investigation in November and December 1995. The facts set forth in the complaint do not, however, support an inference that the suspension was discriminatorily motivated.<sup>2</sup> The Executive Director must act on the basis of what is contained within the four corners of the statement of facts, and is not at liberty to fill in gaps or make leaps of logic. The multitude of materials now on file in this case are by no means "clear and concise" as to matters within the jurisdiction of the Public Employment Relations Commission. In the absence of an amendment when offered the opportunity to do so, it is concluded that the complaint fails to state a cause of action.

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<sup>2</sup> Although the union processed a grievance concerning the suspension, the result or current status of the grievance is unclear.


NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices filed in the above-captioned matter is hereby DISMISSED.

ENTERED at Olympia, Washington, this 6th day of September, 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.