

Whatcom County, Decisions 6024 and 6025 (PECB, 1997)

STATE OF WASHINGTON  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

WHATCOM COUNTY,	)	
	)	
Employer.	)	
-----	)	
DOUGLAS GOLDTHORP,	)	
	)	
Complainant,	)	CASE 13101-U-97-3170
	)	
vs.	)	DECISION 6024 - PECB
	)	
TEAMSTERS UNION, LOCAL 231,	)	
	)	
Respondent.	)	
	)	
-----	)	
DOUGLAS GOLDTHORP,	)	
	)	
Complainant,	)	CASE 13102-U-97-3171
	)	
vs.	)	DECISION 6025 - PECB
	)	
WHATCOM COUNTY,	)	
	)	
Respondent.	)	ORDER OF DISMISSAL
	)	
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On April 25, 1997, Douglas Goldthorp filed two unfair labor practice complaints with the Public Employment Relations Commission under Chapter 391-45 WAC. Consistent with the Commission's docketing procedures, two separate cases were docketed as follows: A complaint alleging that Teamsters Union, Local 231 (union) had breached its duty of fair representation was docketed as Case 13101-U-97-3170; a complaint alleging that Whatcom County (employer) had violated its own personnel ordinances and the collective bargaining agreement was docketed as Case 13102-U-97-3171.

The cases were nevertheless considered together by the Executive Director for the purposes of making a preliminary ruling under WAC

391-45-110.<sup>1</sup> A deficiency notice issued on June 12, 1997, informed Goldthorp of several problems with his complaint, and Goldthorp was given 14 days in which to file and serve an amended complaint that stated a cause of action, or face dismissal of his complaint. Nothing further has been heard or received from Goldthorp.

#### Violations of County Personnel Ordinances

The complainant alleged that the employer violated Chapter 3.04 of the Whatcom County Code, which sets forth a personnel system. The deficiency notice pointed out that the jurisdiction of the Public Employment Relations Commission is limited to the resolution of collective bargaining disputes between employers, employees, and unions, and that the agency has no authority to enforce rights that arise under the Whatcom County Code. Such allegations would need to be pursued under any procedures established in the Whatcom County Code, or through the courts.

#### Violation of Collective Bargaining Agreements

The complainant attributes the rejection of his reclassification requests to violations by the employer (and the union) of the collective bargaining agreement between the employer and the union. The deficiency notice pointed out that the 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 allegations would need to be pursued under any grievance and arbitration procedures established within the collective bargaining agreement, or through the courts.

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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.

Breach of Duty of Fair Representation

The complainant alleged that the union failed to administer performance evaluations, failed to represent the complainant during a reclassification procedure, and failed to pursue the complainant's grievance to arbitration. The deficiency notice pointed out that 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 matters must be pursued in the courts, which can also assert jurisdiction to determine and remedy any underlying contract violation.

NOW, THEREFORE, it is

ORDERED

The complaints charging unfair labor practices filed in the above captioned matters are hereby DISMISSED.

DATED at Olympia, Washington, this 25<sup>th</sup> day of August, 1997.

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 of review with the Commission pursuant to WAC 391-45-350.