

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

CITY OF TACOMA,)	
)	
Employer.)	
-----))	
BILLIE J. STANDIFER,)	CASE 12965-U-97-03125
)	
Complainant,)	
)	
vs.)	DECISION 5949 - PECB
)	
INTERNATIONAL ASSOCIATION)	
OF MACHINISTS, LOCAL LODGE)	
297, DISTRICT LODGE 160,)	ORDER OF DISMISSAL
)	
Respondent.)	
_____))	

On February 2, 1997, Billie J. Standifer filed a complaint charging unfair labor practices with the Public Employment Relations Commission, naming International Association of Machinists and Aerospace Workers, Local Lodge 297, District Lodge 160 (union), as the respondent. A seven page letter addressed "To Whom It May Concern:" was attached to the complaint form. No marks were made in any of the boxes provided on the complaint form for indicating the general nature of allegations.

The case was considered by the Executive Director for the purpose of making a preliminary ruling under WAC 391-45-110,¹ and a deficiency notice issued on March 24, 1997 pointed out several

¹ At this state 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.

problems with the complaint, as filed. The seven page letter was taken to be the statement of facts required by WAC 391-45-050(2), but other attachments to the complaint were taken to be documents which might be offered in evidence at a hearing.

The materials on file were understood as alleging that the union interfered with Standifer's rights as an employee, by colluding with the employer and/or acting separately to deprive him of "formal recognition" of the overhaul section where he is employed. The complaint was understood as suggesting that Standifer believed such recognition would result in a pay increase for him.

It was noted that RCW 41.56.160 imposes a six-month period of limitations on the filing of unfair labor practice complaints, and this complaint filed on February 6, 1997 can only be considered timely for events occurring on or after August 6, 1996. Many of Standifer's requests to the employer for recognition and to the union for contract proposals were in the 1993-1995 time period. Thus, this complaint appeared to be untimely as to those actions.

The deficiency notice concluded that the only timely allegations appeared to involve requests which Standifer submitted to the employer and/or union, and a response by a union official that Standifer's request would not be discussed in the contract negotiations. However, the complaint failed to state a cause of action for a "breach of the duty of fair representation" in the absence of any factual allegations suggesting that the union acted in an arbitrary or discriminatory manner.²

² From the information supplied in the complaint, there was no evident reason to conclude that Chapter 41.56 RCW imposed any obligation on the employer to respond to Standifer's request.

In his final allegation, Standifer related that he requested agency fee status from his union, but was told he could only apply for that status in October and that he would lose voting rights and other privileges of union membership if he was granted such status. Standifer correctly identified this as an issue that has been ruled upon by the Supreme Court of the United States in Abood v. Detroit Board of Education, 431 U.S. 209 (1977) and Chicago Teachers Union v. Hudson, 475 U.S. 292 (1985). The deficiency notice pointed out, however, that Standifer incorrectly assumed the existence of an administrative remedy under state law. In Local 2916 IAFF v. PERC, 128 Wn.2d 375 (1995), the Supreme Court of the State of Washington ruled that the Commission has no jurisdiction to enforce the federal court rulings in this area.

Standifer was given a period of 14 days in which to file and serve an amended complaint, or face dismissal of the case. He made a telephonic request for an additional two weeks to respond, which was granted, but nothing further has been received from him.


NOW, THEREFORE, it is

ORDERED

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

Issued at Olympia, Washington, on the 6th day of June, 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 for review with the Commission pursuant to WAC 391-45-350.