

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

CITY OF CHELAN,)	
)	
Employer.)	
-----)	
BETH ZEMBAL,)	CASE 13452-U-97-3285
)	
Complainant,)	DECISION 6266 - PECB
)	
vs.)	
)	
AFSCME, LOCAL 846 CC,)	ORDER OF DISMISSAL
)	
Respondent.)	
_____)	

The complaint charging unfair labor practices filed in the above-captioned matter on October 6, 1997, was considered by the Executive Director under WAC 391-45-110.¹ A deficiency notice issued on December 8, 1997, pointed out problems with the complaint and gave the complainant a 14-day period in which to amend or face dismissal. Nothing further was received from the complainant.

DISCUSSION:

On its face, this complaint suggested that the union negotiated a wage increase which benefitted union members over bargaining unit employees who were not union members. Such allegations would state a cause of action, but documents filed in support of the complaint

¹ At that stage of the proceedings, all of the facts alleged in the complaint were assumed to be true and provable. The question at hand was whether, as a matter of law, the complaint stated a claim for relief available through unfair labor practice proceedings before the Public Employment Relations Commission.

raised a serious question as to whether **bargaining unit members** were favored over employees outside of the bargaining unit. These conflicting interpretations were pointed out to the complainant in the deficiency notice.

A union does not owe a duty of fair representation to employees outside of the bargaining unit it represents, and such employees have no cause of action against a union that is successful in negotiating wage increases greater than are unilaterally granted by the employer to its non-represented employees. The Executive Director is not at liberty to fill in gaps or make leaps of logic, but neither is he compelled to ignore internal inconsistencies in a complaint. In the absence of any explanation in response to the deficiency notice, this complaint fails to state a cause of action.


NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices in this matter is DISMISSED for failure to state a cause of action.

Issued at Olympia, Washington, this 16th day of April, 1998.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


MARVIN L. SCHURKE, Executive Director

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