

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

ELIZABETH JOHNSON,	)	
	)	
Complainant,	)	CASE 13445-U-97-03289
	)	
vs.	)	DECISION 6351 - PECB
	)	
CITY OF PORT TOWNSEND,	)	
	)	
Respondent.	)	ORDER OF DISMISSAL
	)	
	)	

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Elizabeth Johnson, appeared pro se.

Timothy L. McMahan, City Attorney, appeared on behalf of the respondent.

On October 2, 1997, Elizabeth Johnson filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming her employer, the City of Port Townsend, as the respondent.<sup>1</sup> Her basic charge was that the employer had disciplined her by reducing her hours of work. Additional information was filed on October 29, November 3, November 5, November 10 (two separate documents), and November 12,

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<sup>1</sup> Johnson has filed two additional unfair labor practice cases with the Commission. One is a complaint against this employer (Case 13478-U-97-03289), which was found to state a cause of action and will be the subject of a forthcoming hearing. The other is a complaint against Teamsters Union, Local 589 (Case 13611-U-97-03330), which is the subject of a deficiency notice issued under WAC 391-45-110. Some of the amendatory materials in this case addressed the other two cases.

1997. Those materials were treated as supplements to the statement of facts filed with the original complaint. In boxes provided on the complaint form to categorize alleged violations, Johnson has indicated "employer interference with employee rights" under RCW 41.56.140(1); "employer domination or assistance of union" under RCW 41.56.140(2); "employer discrimination" under RCW 41.56.140(3); and employer refusal to bargain" under RCW 41.56.140(4).

The complaint was considered by the Executive Director under WAC 391-45-110.<sup>2</sup> A deficiency notice issued on December 8, 1997, pointed out that some of the materials filed by Johnson suggested a claim that the employer did not have "just cause" to discipline her. Because the boxes had been marked to indicate four different alleged violations of the statute, the deficiency notice addressed the Commission precedents regarding: Violation of contract; duty of fair representation; interference with right to union representation; domination or assistance of union; and refusal to bargain. It was noted that the facts presented did not state a cause of action under any of those categories. The complainant was given a period of 14 days in which to file and serve an amended complaint which stated a cause of action, or face dismissal of the complaint.

On December 9, 1997, Johnson filed a document titled "Amendment to Paragraph 4", together with several supporting documents. A copy of the original statement of facts was resubmitted, with Paragraph

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<sup>2</sup> At this stage of the proceedings, all of the facts alleged in a 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.

4 circled. The document also asked for additional remedies. This filing was presumed to have crossed in the mail with the deficiency notice and, while the materials were interpreted as an effort to make the original statement of facts more accurate, they did not alter the conclusion that the allegations of interference with the right to union representation were insufficient to state a cause of action.

A Christmas card received from Johnson on December 15, 1997, contained a handwritten note in which she acknowledged receipt of the deficiency notice. There was no indication that a delay of the previously-established deadline was being requested. Further, there was no indication that Johnson had contacted the opposing party concerning any requested delay of the deadline for her response.

The deadline for a response to the deficiency notice came and went on December 22, 1997, without anything further from Johnson on the above-captioned case. On December 23, 1997, Johnson filed several pages of materials under a heading of: "Response to City Attorney Packet". Although all three case numbers were used, the content of these materials suggests it was intended to respond to materials filed by the employer in Case 13478-U-97-3289. In a letter dated December 24, 1997, the parties were notified that all of the previous correspondence on the three cases had been inventoried, and that nothing further had been received from Johnson in response to the deficiency notice issued in this case. As of the date of this decision, nothing further has been heard from Johnson in response to the deficiency notice.

NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices filed by Elizabeth Johnson in the above-captioned matter is dismissed for failure to state a claim on which relief can be granted through unfair labor practice proceedings before the Public Employment Relations Commission.

Issued at Olympia, Washington, on the 8<sup>th</sup> day of July, 1998.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

A handwritten signature in cursive script, appearing to read "Marvin L. Schurke", written in black ink over the typed name.

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.