

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

KING COUNTY CORRECTIONS GUILD,)	
)	
Complainant,)	CASE 13412-U-97-3272
)	
vs.)	DECISION 6189 - PECB
)	
KING COUNTY,)	
)	
Respondent.)	ORDER OF DISMISSAL
)	
_____)	

On September 17, 1997, the King County Corrections Guild (union) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, alleging that King County (employer) had refused to bargain with the union regarding a "furnished proof" sick leave policy. The complaint was reviewed by the Executive Director pursuant to WAC 391-45-110,¹ and a deficiency notice issued on December 22, 1997, pointed out problems which prevented a finding that the complaint stated a cause of action, as filed.

1. The complaint indicated that the disputed policy was first implemented at some point prior to September of 1996. The deficiency notice pointed out that RCW 41.56.160 precludes the processing of any complaint charging unfair labor practices which is filed more than six months following the action which gave rise to the complaint. This complaint filed on September

¹ At that 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.

17, 1997, could only be considered timely for employer conduct which occurred on or after March 17, 1997.

2. The statement of facts accompanying the complaint asserted that the employer had "again created" the disputed policy on July 18, 1997. The deficiency notice indicated that the "again created" wording was problematic, because the duty to bargain does not exist with respect to reiteration of an unchanged policy. Additionally, while an attachment to the complaint allegedly reflected a change in July of 1997, nothing was found in that document which appeared to indicate such a unilateral action. The union was advised that further details would be necessary in order to distinguish any change of policy between September 1996 and July 1997.
3. The complaint indicated that the union became the exclusive bargaining representative of the bargaining unit in September 1996, replacing Service Employees International Union, Local 519. The deficiency notice pointed out that a newly-certified exclusive bargaining representative commences bargaining from the wages, hours, and working conditions which mark the status quo on the date of its certification, and does not inherit any rights as to past "refusal to bargain" causes of action which might have been available to a prior representative. Accordingly, it again appeared that no cause of action could be stated for any unilateral change which occurred prior to this union's certification.
4. Finally, the complaint asserted that even after the alleged unilateral implementation in July 1997, the employer continued to refuse to bargain the furnished proof policy and related sick leave issues. In light of the foregoing problems, however, these facts were insufficient to determine the existence of a cause of action.

The complainant was given a period of 14 days following the date of the deficiency notice in which to file and serve an amended complaint which stated a cause of action, or face dismissal of the complaint. Nothing further has been heard or received from the complainant.

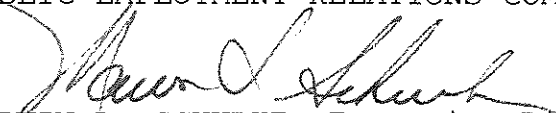
NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices filed in the above-captioned matter is hereby DISMISSED for failure to state a cause of action.

Issued at Olympia, Washington, this 23rd day of January, 1998.

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.