

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

INTERNATIONAL ASSOCIATION OF)	
FIRE FIGHTERS, LOCAL 1433,)	
)	
Complainant,)	CASE 13601-U-97-3326
)	
vs.)	DECISION 6227 - PECB
)	
CITY OF PASCO,)	
)	
Respondent.)	ORDER OF PARTIAL
)	DISMISSAL
)	
)	

On December 11, 1997, International Association of Fire Fighters, Local 1439, filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, alleging that the City of Pasco had violated RCW 41.56.140. Specifically, the complaint alleged the employer had unlawfully interfered with employee rights, discriminated, and refused to bargain when it denied a request by Lt. Dave Hare for union representation during questioning by the employer about the actions of fire fighters whom Hare supervised.

A deficiency notice was issued on January 23, 1998, under WAC 391-45-110.¹ That procedure conforms to RCW 34.05.419(2), which requires administrative agencies to:

Examine the application, notify the applicant
of any obvious errors or omissions, [and]

¹ 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.

request any additional information the agency wishes to obtain and is permitted by law to require.

The deficiency notice alerted the union to the complaint's lack of specific dates, names of participants in events, and factual allegations supporting the claim of discrimination. It also stated the complaint would be dismissed unless a timely amendment stated a cause of action.

Interference Allegation Rehabilitated

An amended complaint filed February 4, 1998, remedied some, but not all, of the noted deficiencies. The amended complaint alleged Hare was questioned and denied union representation on August 29, 1997, which falls within the six-month period for which the original complaint filed on December 11, 1997, is timely.² Management representatives participating in Hare's questioning were sufficiently identified in the amended complaint to give the employer adequate notice to defend against the allegations.

Discrimination and Refusal to Bargain Allegations Insufficient

The amended complaint included no factual allegations supporting the claim that the employer discriminated against employees or refused to bargain by its August 29, 1997 actions toward Hare.

NOW, THEREFORE, it is

² RCW 41.56.160(1). The amended complaint relates back, because it provides additional details about the same incident described in the original complaint. Fort Vancouver Regional Library, Decision 2396-A (PECB, 1986). Accordingly, the six-month period is computed from the date the original complaint was filed.

ORDERED

1. The allegation that the employer interfered with employee rights by the actions alleged in paragraph 5 of the amended complaint is referred to Examiner Pamela G. Bradburn for further proceedings under Chapter 391-45 WAC.
 - a. The person or organization charged with an unfair labor practice in this matter (the "respondent") shall:

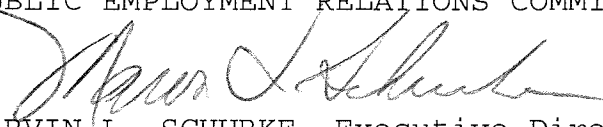
File and serve its answer to the complaint within 21 days following the date of this letter.
 - b. An answer filed by a respondent shall:
 - i. Specifically admit, deny or explain each of the facts alleged in the complaint, except if the respondent is without knowledge of the facts, it shall so state, and that statement will operate as a denial; and
 - ii. Assert any affirmative defenses that are claimed to exist in the matter.
 - c. The original answer and one copy shall be filed with the Commission at its Olympia office. A copy of the answer shall be served, on the same date, on the attorney or principal representative of the person or organization that filed the complaint.
 - d. Except for good cause shown, a failure to file an answer within the time specified, or the failure to file an answer to specifically deny or explain a fact alleged in the complaint, will be deemed to be an admission that the fact is true as alleged in the complaint, and as a waiver

of a hearing as to the facts so admitted. WAC 391-45-210.

- e. The Examiner will issue a notice of hearing in the matter. A party desiring a change of hearing dates must comply with the procedure set forth in WAC 391-08-180, including making contact to determine the position of the other party prior to presenting the request to the Examiner.
2. Except as provided in paragraph 1 of this order, all of the allegations of the amended and original complaints filed in the above-captioned matter are DISMISSED as failing to state a cause of action.

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

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director

Paragraph 2 of this order will be the final order of the agency on the matters covered, unless appealed by filing a petition for review with the Commission pursuant to WAC 391-45-350.