

City of Seattle, Decision 6492 (PECB, 1998)

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

TEAMSTERS UNION, LOCAL 763,)	
)	
Complainant,)	CASE 14008-U-98-3458
)	
vs.)	DECISION 6492 - PECB
)	
CITY OF SEATTLE,)	ORDER OF DISMISSAL
)	
Respondent.)	
)	
)	

On July 6, 1998, Teamsters Union, Local 763, filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, alleging that the City of Seattle (employer) had violated RCW 41.56.140. The complaint was reviewed by the Executive Director under WAC 391-45-110,¹ and a deficiency notice issued on September 9, 1998, pointed out problems which precluded finding that cause of action existed.

Paragraphs 1 and 2 of the statement of facts merely identify the parties' bargaining relationship and allege there has been a past practice of allowing union stewards to participate in contract negotiations on the employer's time.

Paragraph 3 alleges that the employer took a position, on an unspecified date, that the employees participating in collective bargaining sessions on behalf of the union would need to take the

¹ At that 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.

time as unpaid leave or use their accrued leave for such purpose. This complaint filed on July 6, 1998 is untimely, under RCW 41.56.160, as to actions which occurred prior to January 6, 1998. The alleged events impliedly occurred prior to or on November 4, 1997, when the parties had a meeting concerning ground rules for their negotiations. This paragraph thus failed to state a cause of action for proceedings before the Commission.

Paragraphs 4 and 5 concern a union request for, and the scheduling of, a meeting to discuss ground rules. This is also alleged to have occurred in November and December of 1997. The complaint is also untimely as to these allegations.

Paragraphs 6, 7, and 8 allege that the union made a request, on January 21, 1998, to set a date to exchange contract proposals and to "continue the negotiations on the inclusion of the Union Shop Stewards in the negotiations", that the union "reiterated its position" concerning the shop stewards during a meeting held by the parties on March 26, 1998, and that the parties exchanged proposals during another negotiations session held on April 28, 1998. These paragraphs do not, however, allege any misconduct by the employer. The most that can be inferred from them is that the employer held to the same position it announced prior to November 4, 1997.

Paragraph 9 expressly alleges that the employer held to the same "stewards would have to take leave without pay or use accrued leave time for all hours spent in collective bargaining which occurred during the employee's normal working hours" position taken by the employer prior to November 4, 1997. Thus, no "unilateral change" is alleged to have occurred within the six months prior to the filing of this complaint.

The complaint did not make clear whether any of the shop stewards actually participated in any of the bargaining sessions, or whether the employer actually deviated in any way from the policy which it

is alleged to have announced in paragraph 3 of the statement of facts. Thus, the complaint did not allege that the employer refused to bargain the issue, so as to suggest a violation of RCW 41.56.140(4). A failure to agree is not indicative of any unfair labor practice.

The complaint 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.

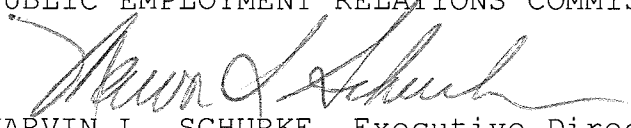
NOW, THEREFORE, it is

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 20th day of November, 1998.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director

This order will be the final order of the agency unless a notice of appeal is filed with the Commission under WAC 391-45-350.