

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

WASHINGTON PUBLIC EMPLOYEES
ASSOCIATION,

Complainant,

vs.

COLUMBIA BASIN COLLEGE,

Respondent.

CASE 25544-U-13-6536

DECISION 11708 - PSRA

ORDER OF DISMISSAL

On March 18, 2013, the Washington Public Employees Association (union) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming Columbia Basin College (employer) as respondent. The complaint was reviewed under WAC 391-45-110,¹ and a deficiency notice issued on March 25, 2013, indicated that it was not possible to conclude that a cause of action existed at that time. The union was given a period of 21 days in which to file and serve an amended complaint or face dismissal of the case.

The union has not filed any further information. The Unfair Labor Practice Manager dismisses the complaint for failure to state a cause of action.

DISCUSSION

The allegations of the complaint concern employer interference with employee rights in violation of RCW 41.80.110(1)(a), by threats of reprisal or force or promises of benefit made to Julie

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.

Henning (Henning) and Susan Mortimore (Mortimore) in connection with union activities. The deficiency notice pointed out the defects to the complaint.

The complaint alleges that on May 29, 2012, employer official Denise Williamson (Williamson) interfered with the collective bargaining rights of Henning and Mortimore in a conversation regarding a salary reduction and decertification of the union. The union alleges that it first learned of the alleged conversation on September 18, 2012. The complaint was filed on March 18, 2013.

Case on appeal

On July 30, 2012, the union filed an unfair labor practice complaint alleging that the employer interfered with employee rights in violation of RCW 41.80.110(1)(a), in statements made by Rich Cummins (Cummins) to a bargaining unit member through an e-mail sent on June 21, 2012, and through a conversation between Williamson and bargaining unit members JoAnn Johnson (Johnson) and Jennifer Rada (Rada) on May 31, 2012. Examiner Stephen W. Irvin held a hearing on September 18, 2012. On December 28, 2012, Examiner Irvin found interference violations for the actions of both Cummins and Williamson. The union appealed the decision, and the matter is currently before the Commission (case on appeal). *Columbia Basin College*, Decision 11609 (PSRA, 2012).

The claim and issue in the present case have been decided

The union's appeal is based upon the Examiner Irvin's decision as it relates to Cummins' e-mail and Williamson's conversation with Johnson and Rada. In the present claim, the union's complaint is based upon a series of e-mails between employer official Camilla Glatt (Glatt) and Williamson between July 24 and August 2, 2012 (Glatt e-mails). The union introduced that e-mail chain into evidence at the September 18 hearing (Exhibit 29). Examiner Irvin's decision does not make reference to the Glatt e-mails; the union's appeal does not contain an assignment of error concerning the Glatt e-mails.

The matter in dispute in the present case, as it was (in part) in the case on appeal, is whether the employer interfered with employee rights by Williamson discussing decertification and the salary

reduction with bargaining unit members in May 2012. However, that cause of action was litigated, and the union prevailed on its claim. The evidence concerning Henning and Mortimore was apparently irrelevant to Examiner Irvin's ruling; as noted, the union did not appeal the absence of a finding regarding Williamson's conversation with Henning and Mortimore.

The allegations in the present complaint do not state a cause of action

In any case, the present complaint fails to state a cause of action. The Glatt e-mails provide the following information regarding Williamson's conversation with Henning and Mortimore:

- Glatt mentions Williamson's conversation with Henning and Mortimore in one e-mail (July 24);
- The e-mail was sent to Williamson to confirm Glatt's notes from a July 16 conversation between Glatt and Williamson;
- There are no direct quotes from Williamson, Henning, or Mortimore;
- Glatt wrote [in pertinent part] that Williamson stated that she did not initiate the conversation with Henning and Mortimore, told them that another bargaining unit had filed for decertification, and that she "did not promise anything in regards to what would happen if they did."

The present complaint alleges that Williamson encouraged decertification efforts by Henning and Mortimore and told them that decertification would result in restoration of a 3 percent salary reduction. A preliminary ruling will be issued where alleged facts, assumed to be true and provable, show that an unfair labor practice could be found. However, the Glatt e-mails contain no showing that Williamson encouraged Henning and Mortimore to file for decertification, do not show that Williamson discussed the salary reduction, and specifically deny any promises made by Williamson.

The union's complaint is legally deficient in raising both a claim and an issue previously decided in an administrative hearing. The union did not appeal the issue of Williamson's conversation with Henning and Mortimore and may not now raise it in a separate unfair labor practice

complaint. Further, the complaint is factually deficient in alleging legal claims that the union's own information does not support.

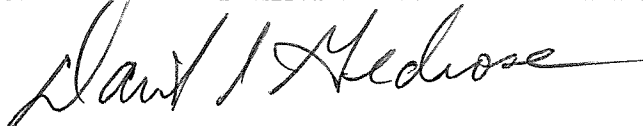
NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices in Case 25544-U-13-6536 is DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 24th day of April, 2013.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

A handwritten signature in cursive script, appearing to read "David I. Gedrose", written in black ink over the printed name.

DAVID I. GEDROSE, Unfair Labor Practice Manager

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



PUBLIC EMPLOYMENT RELATIONS COMMISSION

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PUBLIC EMPLOYMENT RELATIONS
COMMISSION

BY: S. *[Signature]*
ROBBIE DUFFIELD

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