



to bid for. Apparently, union officials believed that the particular routes were not "legal" because they ended after 8:00 P.M., and the union officials removed those routes from the list of bus driving assignments available for bidding among bargaining unit members. After the routes in question were removed, complainant contacted the union office to ask why such action was taken, and the union refused to accede to complainant's requests for a reinstatement of the disputed bus routes.


At this point, the complaint does not state a cause of action that can be addressed by the Commission. The complainant has documented communication problems with the union, but has not demonstrated that the union's actions rise to the level of an unfair labor practice. The complaint does not allege that he has somehow been "singled out" by the union for disparate treatment, or otherwise discriminated against because of the exercise of rights guaranteed by the collective bargaining statute or because of other invidious discrimination. Rather, the complaint deals with a disagreement concerning the application of the collective bargaining agreement to all of the employees in the bargaining unit. Such matters are generally within the union's authority to decide, although a union owes represented employees a duty of fair representation. In numerous cases since Mukilteo School District (Public School Employees of Washington), Decision 1381 (PECB, 1982) a distinction has been drawn between two sub-types of "duty of fair representation" cases. The Public Employment Relations Commission continues to process "duty of fair representation" claims involving discrimination in the collective bargaining process. On the other hand, where, as here, the complainant believes that the union has not met its duty of fair representation in connection with the filing or processing of a dispute under a collective bargaining agreement, he must pursue that

legal theory through the filing of a law suit in the state's court system. The courts have jurisdiction to remedy violations of contract, and so may address the underlying dispute as well as any duty of fair representation problems.

With the guidance provided here, the complainant may be able to amend the complaint to state existing relevant facts not heretofore included. The complainant is allowed fourteen (14) days following the date of this preliminary ruling to amend the complaint. In the absence of a sufficient amendment, the matter shall be dismissed as failing to state a cause of action.

DATED at Olympia, Washington, this 14th day of August, 1987

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director