

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

TEAMSTERS UNION, LOCAL 252,)	
)	
Complainant,)	CASE NO. 6683-U-86-1341
)	6709-U-86-1346
vs.)	6710-U-86-1347
)	
LEWIS COUNTY,)	DECISION 2957-A - PECB
)	
Respondent.)	DECISION OF COMMISSION
)	
)	

Davies, Roberts & Reid, by Bruce E. Heller, Attorney at Law, appeared on behalf of the complainant.

James R. Miller, Prosecuting Attorney, by Eugene Butler, Deputy Prosecuting Attorney, appeared on behalf of the respondent.

On June 17, 1988, Examiner Walter M. Stuteville issued his findings of fact, conclusions of law and order in the above-entitled matter, finding that the employer committed unfair labor practices in violation of RCW 41.56.140 and ordering remedies.

On July 8, 1988, Lewis County filed a petition for review. On the same date, Lewis County filed a letter and a corrected page for its petition for review. The Executive Director issued a letter on July 11, 1988, acknowledging receipt of the petition for review on July 8, 1988 and pointing out that the petition for review appeared to be untimely under WAC 391-45-350.

On July 13, 1988, the complainant moved for dismissal of the petition for review as untimely.

On July 19, 1988, Lewis County filed a response to the motion for dismissal of its petition for review, together with a motion for extension of time. While it does not dispute that its petition for review was filed beyond the 20-day time limit set forth in the rule, it attributes the late filing to delay in the U.S. Mail. The employer supports its request for extension of time by citation of Scully v. Employment Security, 42 Wn.App 596 (1986), asserting that the delay is brief, that there is no prejudice to the parties and that the error was excusable.

Consistent with longstanding Commission policy and precedent, the petition for review must be dismissed. See: City of Seattle, Decision 2230-A (PECB, 1985); Seattle Public Health Hospital (American Federation of Government Employees), Decision 1781-B (PECB, 1984); Port of Ilwaco, Decision 970-A (PECB, 1980); Spokane School District, Decision 310-A (EDUC, 1978); and, most recently, Port of Seattle, Decision 2661-B (PECB, May, 1988). The policy has been applied equally to pro se claimants and to experienced labor and management advocates.

WAC 10-08-110(4) and WAC 391-08-120(4) state the existing standards for administrative practice generally and for practice before the Commission, each providing that filing is deemed complete only upon actual receipt by the agency during regular office hours. Recent amendments to the Administrative Procedures Act in Chapter 288, Laws of 1988 (House Bill 1515), at Section 101(6) of the bill, re-affirm the general rule of administrative law, that filing with an agency requires actual delivery of the document to the agency.

NOW, THEREFORE, it is

ORDERED

1. The petition for review is dismissed as untimely.
2. Lewis County shall notify the Executive Director, in writing, within ten (10) days following the date of this Order of the steps taken to comply with the Order issued by Examiner Walter M. Stuteville.

ISSUED at Olympia, Washington, this 15th day of August, 1988.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

Jane R. Wilkinson
JANE R. WILKINSON, Chairman

Joseph F. Quinn
JOSEPH F. QUINN, Commissioner

Commissioner Mark C. Endresen
did not take part in the
consideration or decision
of this case.