

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

PUBLIC SAFETY EMPLOYEES)	
LOCAL 519,)	
)	
Complainant,)	CASE 6930-U-87-1407
)	
vs.)	DECISION 3204 - PECB
)	
KING COUNTY,)	
)	
Respondent.)	ORDER OF DISMISSAL
)	
)	

On July 6, 1987, Public Safety Employees Local 519 filed a complaint with the Public Employment Relations Commission, charging that King County had committed unfair labor practices within the meaning of RCW 41.56.140(4), by unilaterally implementing a change of employee wages and working conditions. Specifically, the complaint alleged that the employer had unilaterally created a "subpoena control unit" and then placed officers on unlimited "on-call" status in connection with certain court appearances.

The matter was deferred to arbitration on August 12, 1987, in conformity with the policies enunciated by the Commission in Stevens County, Decision 2602 (PECB, 1987). Arbitrator Alan R. Krebs issued an award in the matter on April 17, 1989. The parties have each provided a copy of the arbitration award, and each has also submitted written arguments concerning the effect of that arbitration award on the captioned case.

The essence of the dispute is that the employer put police officers on "standby" (at one-half pay), rather than having

them report for work (at time-and-one-half pay), when there was a possibility that they would need to appear in court on their normal day off. At the outset of the "Discussion" section of his award, the Arbitrator quoted the parties' contract as providing for standby pay for police officers "who are scheduled for court appearance on a furlough day or during off-duty time . . ." After examining conflicting parol evidence concerning bargaining intent and past practice, the Arbitrator stated, "Article IX, Section 7 permits the County to utilize standby pay for officers who are subpoenaed to appear in district court during their off-duty time." Accordingly, the Arbitrator denied the grievance.

The employer now argues that the unfair labor practice complaint should be dismissed under the standards set forth in Stevens County, reasoning that the arbitration award finds that the union's right to bargain had been waived by the language of the collective bargaining agreement. The union counters that the Arbitrator made no determination regarding the statutory violation, and it requests that the Commission proceed to hear the unfair labor practice complaint.

Grievance arbitration procedures and unfair labor practice procedures are separate and distinct "spokes" in the wheel of labor-management dispute resolution, yet they inter-relate at the point of determining "waiver by contract" defenses within the unfair labor practice type. As noted in Stevens County, there are three likely results in grievance arbitration, any of which will determine the course of related unfair labor practice proceedings. The award issued by Arbitrator Krebs falls into one of those three likely results. In reaching his conclusion that the employer did not violate the collective bargaining agreement, he found that Article IX, Section 7 of the collective bargaining agreement permitted the employer to

use the standby practice. In other words, the employer's conduct was "protected by the contract".

The Commission does not surrender or defer its authority to decide unfair labor practice allegations. The Arbitrator properly refused in this case to rule on the union's claim that the statutory duty to bargain has been violated. The question at hand is the acceptance of the Arbitrator's contract interpretation as conclusive on this case.

No defect is asserted or perceived which would deprive the arbitration award of its validity. The Arbitrator's conclusion that the employer's conduct was protected by the existing contract dictates a conclusion here that there was no duty to bargain the subject at that time under the statute.


NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices in the above entitled matter is hereby DISMISSED.

DATED at Olympia, Washington, this 11th day of May, 1989.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


MARVIN L. SCHURKE, Executive Director

This Order may be appealed by filing a petition for review with the Commission pursuant to WAC 391-45-350.