

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

HUGH D. WEINREICH,	)	
	)	
Complainant,	)	CASE 7850-U-89-1679
	)	
vs.	)	
	)	DECISION 3294 - PECB
INTERNATIONAL LONGSHOREMEN'S	)	
AND WAREHOUSEMEN'S UNION,	)	
LOCAL 9,	)	
	)	
Respondent.	)	
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HUGH D. WEINREICH,	)	
	)	
Complainant,	)	CASE 7873-U-89-1687
	)	
vs.	)	DECISION 3295 - PECB
	)	
PORT OF SEATTLE,	)	
	)	ORDER DENYING
Respondent.	)	MOTION TO DISMISS
	)	
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On March 22, 1989, Hugh D. Weinreich, a longshoreman in the employ of the Port of Seattle, filed complaints charging unfair labor practices with the Public Employment Relations Commission, alleging that International Longshoremen's and Warehousemen's Union, Local 9 and the Port of Seattle. The factual allegations that were alleged were contained in two letters attached to the complaint.

The first letter, dated November 29, 1988 and addressed to John Swanson, the director of labor relations for the employer, was signed by a number of employees including the complainant. This letter stated that on November 23, 1988, the foreman laid off "seniority" workers while retaining "casual" employees, in violation of Article XXI of the collective bargaining agreement

between the Port and Local 9. While that letter acknowledged that the signatory employees lost no income because they were called on the weekend to report for work on the following Monday, they asked Swanson to state the policy with respect to hiring of casuals.

The second letter, dated January 4, 1989 and addressed to Local 9 Foreman Ed Trinkka, was signed by Krik Thomsen, the employer's superintendent for marine operations. That letter admonished Trinkka for not laying off "casual" employees as instructed, and ordered him to submit the names of those who are laid off in the future. Thomsen told Trinkka that a failure to follow instructions would result in discipline.

The remedies asked for in the complaints were that persons be made "whole for loss of earnings", and that Local 9 represent all persons who seek to utilize the hall in a fair impartial manner.

Based on the information in the complaint forms and the two letters attached to the complaints, the Executive Director informed Weinreich, by letter dated April 25, 1989, that allegations relating to violations of a collective bargaining agreement or personnel policies do not state a cause of action. Weinreich was allowed 14 days in which to amend his complaints.

On May 7, 1989, Weinreich amended his complaints, alleging that four "casual" employees named in the amendment were granted "seniority" status because of familial and union connections, with the complicity of the employer. Further, Weinreich alleged that the union had failed to process his grievance alleging violation of the collective bargaining agreement.

On May 16, 1989, the Executive Director issued a preliminary ruling pursuant to WAC 391-45-110, determining that the cases should go to hearing with respect to the following:

Discriminatory conferral of Seniority status on the four named individuals, by preference on the basis of union membership, familial relationships and personal relationships with union officers.

The cases were set to be heard on October 10, 1989, and September 29, 1989 was set as the date for filing of an answer.

On September 18, 1989, the employer filed a motion to dismiss the complaint, supported by an affidavit of Swanson which states that Weinreich was a member and officer of the union during the time period relevant to these cases. The employer argues, in support of its motion that Weinreich could not possibly be a discriminatee on the basis of "union activity" if he was an officer in the union. The employer acknowledges that Weinreich "is unhappy that he did not receive a seniority position" at the time period involved, but argues that "his failure to obtain a position cannot be the result of 'familial relationships and personal relationships with union officers' as he was a union officer." Further, the employer contends that "the hiring of a person who happens to be a relative or friend of an existing employee is not an unfair labor practice."

The employer appears to mis-state the nature of the complaint. A union is not at liberty to use its status as exclusive bargaining representative to advance the interests of union members or the families and friends of union officials to the detriment of either existing employees or other applicants for employment. Even if Weinreich is a union member and/or officer, he would have a cause of action for unfair labor practice proceedings before the Commission if his employment opportunities were in any way reduced or prejudiced by an unlawful conferral of "seniority" status on other employees. This would be true if he were denied employment or suffered reduced employment because others were given undeserved "seniority" status because of their union membership. Similarly, this would be true if he were denied employment or suffered reduced

employment because others (including his own friends or relatives) were given undeserved "seniority" status because of their familial and personal relationships with union officials.

The employer correctly argues that Weinreich lacks standing to file and process a complaint on behalf of other employees or applicants for employment, but he has standing to protect his own rights. The complaint appears to state such a cause of action.

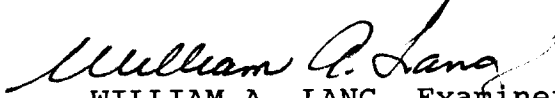
NOW, THEREFORE, it is

ORDERED

The motion to dismiss filed by the Port of Seattle is DENIED.

Dated at Olympia, Washington, the 25th day of September, 1989.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

  
WILLIAM A. LANG, Examiner