

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

GENE MINETTI,)	
)	CASE 7699-U-88-1625
Complainant,)	
)	
vs.)	DECISION 3616 - PECB
)	
ILWU, LOCAL 9,)	
)	
Respondent.)	
-----)	
GENE MINETTI,)	
)	CASE 7700-U-88-1626
Complainant,)	
)	
vs.)	DECISION 3617 - PECB
)	
PORT OF SEATTLE,)	
)	DECISION OF COMMISSION
Respondent.)	
_____)	

This case comes before the Commission on a petition for review filed by the complainant, Gene Minetti.

BACKGROUND

On December 1, 1988, Gene Minetti filed unfair labor practice complaints with the Commission, naming both the Port of Seattle and International Longshoremen's and Warehousemen's Union, Local 9, as respondents. Minetti made a number of allegations.

The complaints were reviewed by the Executive Director for the purpose of making a preliminary ruling pursuant to WAC 391-45-110. Selected allegations were assigned to an Examiner for further proceedings, as follows:

Case 7699-U-88-1625. Allegations concerning a refusal by the union, on and after September 8, 1988, to reinstate Mr. Minetti to the dispatch list on the same basis as union members are reinstated to the dispatch list upon return from withdrawal; and allegations concerning unlawful manipulation of the hiring process to grant tenure to union adherents.

Case 7700-U-88-1626. Allegations concerning collusion by the employer to grant tenure to union adherents.

During the course of the hearing before Examiner Jack T. Cowan, the respondents questioned Minetti's standing to pursue these unfair labor practice charges. The Examiner referred the "standing" question back to the Executive Director, who sent a letter to Minetti on June 28, 1990, asking for further clarification.

Minetti responded, by letter, on July 12, 1990. The Executive Director then reconsidered and clarified his preliminary ruling under WAC 391-45-110, stating:

The Commission's hearings and determinations under Chapter 41.56 RCW are limited to matters arising out of employment relationships, and we have repeatedly found it necessary to advise Mr. Minetti that his general claims of misconduct by Port of Seattle officials cannot be processed before the Commission. Mr. Minetti may or may not have a basis for a citizen's suit against the Port of Seattle and its officials for bad management or harm "to the community at large", but he cannot process an employment discrimination claim in the absence of having sought the job that has allegedly been denied him.

The complaint against the union (Case 7699-U-88-1625) was remanded to the Examiner for further proceedings limited to the allegation concerning a refusal by the union, on and after September 8, 1988, to reinstate Mr. Minetti to the dispatch list on the same basis as

union members are reinstated to the dispatch list upon return from withdrawal.

Pending the outcome of the "refusal to reinstate" issue, the Executive Director ordered that other allegations be held in abeyance, noting:

If Mr. Minetti is successful in establishing that he sought and was unlawfully denied reinstatement to the dispatch list between September 8, 1988 and November 27, 1988, then he will have been among the "applicants for employment" that could have suffered harm by the discriminatory conferral of seniority status that is alleged in both cases. In the absence of establishing his status as an applicant for employment (i.e., as a potential discriminatee) during that period, the allegations being held in abeyance will be dismissed on the basis that Mr. Minetti lacks standing to pursue them. [Omitted are footnotes explaining the significance of the dates cited.]

The Executive Director overruled Minetti's objections to reconsideration of the preliminary ruling.

DISCUSSION

The petition for review is premature, and these cases are not properly before the Commission at this time.

The Executive Director has not made any final disposition of the complainant's substantive rights. The action taken by the Executive Director was entirely procedural, i.e., to regulate the course of the proceedings in a manner in keeping with the efficient use of the limited resources provided to this agency.

WAC 391-45-350 will provide all of the parties an opportunity to file a petition for review following the issuance of an order disposing of their substantive rights.

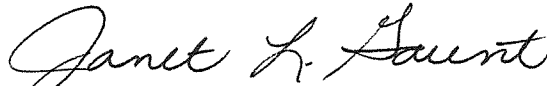
NOW, THEREFORE, it is

ORDERED

The matters are remanded for further proceedings consistent with the preliminary ruling issued by the Executive Director.

Issued at Olympia, Washington, the 2nd day of November, 1990.

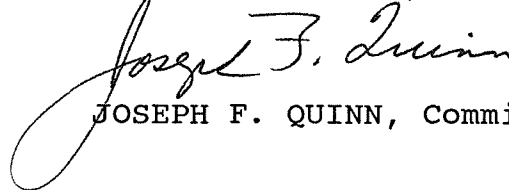
PUBLIC EMPLOYMENT RELATIONS COMMISSION



JANET L. GAUNT, Chairperson



MARK C. ENDRESEN, Commissioner



JOSEPH F. QUINN, Commissioner