

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

WASHINGTON STATE COUNCIL OF)	
COUNTY AND CITY EMPLOYEES,)	
LOCAL 120-CI,)	CASES 9798-U-92-2230
)	10484-U-93-2428
Complainant,)	10489-U-93-2432
)	
vs.)	DECISIONS 4104-B - PECB
)	4506-A - PECB
CITY OF TACOMA,)	5395 - PECB
)	
Respondent.)	ORDER OF DISMISSAL
)	
)	

Audrey Eide, General Counsel, appeared on behalf of the union.

C. S. Karavitis, Senior Assistant City Attorney, appeared on behalf of the employer.

On May 14, 1992, Washington State Council of County and City Employees, Local 120-CI (WSCCCE) filed a complaint charging unfair labor practices with the Public Employment Relations Commission, alleging that the City of Tacoma (employer) had violated RCW 41.56.140, with respect to four occasions when bargaining unit work was assigned to persons outside of the bargaining unit. (Case 9798-U-92-2230).¹

On May 12, 1993, Examiner Walter M. Stuteville was assigned to conduct further proceedings on the remaining charges in Case 9798-U-92-2230. A hearing was duly scheduled, and the employer was directed to file its answer to the complaint by July 1, 1993.

¹ On June 17, 1992, the charges were dismissed as to two of the incidents described in the complaint, because they had occurred more than six months prior to the filing of the complaint, and so were barred by the statute of limitations (RCW 41.56.160). City of Tacoma, Decision 4104 (PECB, 1992).

On May 25, 1993, the union filed another unfair labor practice case against the employer (Case 10484-U-93-2428). This complaint alleged four additional instances when bargaining unit work was assigned to employees outside of the bargaining unit.

On May 27, 1993, the union filed a third unfair labor practice complaint (Case 10489-U-93-2432). This complaint alleged still another occurrence of bargaining unit work assigned to employees outside of the bargaining unit.

Separate preliminary ruling letters issued on June 8, 1993, pursuant to WAC 391-45-110, found the complaint in Case 10484-U-93-2428 and the complaint in Case 10489-U-93-2432 were sufficient to state causes of action. The employer was directed to file its answers to those complaints by June 29, 1993.

The employer filed its answer in Case 10489-U-93-2432 on June 23, 1993. The employer also filed its answer to the complaint in Case 10484-U-93-2428 in a timely manner, on June 25, 1993. The employer filed its answer in Case 9798-U-92-2230 on July 13, 1993, nearly two weeks after the date set by the Examiner.

The employer's answers in Case 9798-U-92-2230 and Case 10489-U-93-2432 asked that those cases be deferred to arbitration under provisions of the parties' collective bargaining agreement. In a conference call between the Examiner and the representatives of the parties, the union raised the question of whether the hearings on the first two charges could be consolidated. The employer agreed that the cases were sufficiently similar to be consolidated, but it sought to condition consolidation on having both cases deferred to arbitration. The union opposed deferral of the cases to arbitration. The Examiner requested the parties to brief both the "consolidation" and "deferral" issues, and the parties submitted their briefs by July 23, 1993.

The cases were returned to the Executive Director for rulings on the "consolidation" and "deferral" issues. On October 4, 1993, the Executive Director denied the motion to defer Case 9798-U-92-2230 and Case 10489-U-93-2432 to arbitration.²

By November 17, 1994, Examiner Stuteville had been assigned to conduct further proceedings on all three complaints. On several occasions since that date, the Examiner has contacted the parties concerning the scheduling of a hearing in these matters. During the course of those inquiries, the Examiner discussed the status of these cases with union staff representative Robert McCauley, and with City of Tacoma Risk Manager Andrew Michels, each of whom indicated their awareness of and involvement in the above-captioned matters. On each occasion when the Examiner was able to reach the parties' representatives, he was told that the parties were engaged in continuing negotiations concerning the issues in these cases, and that they did not wish a hearing scheduled.

The Examiner's latest effort to make telephonic contact with the parties' representatives resulted only in leaving messages. The Examiner received no response to those messages from either party.

In a letter dated October 19, 1995, the Examiner informed the parties that the above-captioned matters would be held open for 30 days following the date of the letter, to permit the filing and service of:

- (1) Information concerning the current status of the issues framed before the Commission and any related matters; and
- (2) positions from the parties as to whether a viable case or controversy remains for proceedings before the Commission.

Nothing further has been heard or received from either party. In view of the case processing history described above, the Examiner

² City of Tacoma, Decisions 4104-A and 4506 (PECB, 1993).

concludes that the matters have been resolved or abandoned by the parties, and that these cases should be closed.

NOW, THEREFORE, it is

ORDERED

The complaints charging unfair labor practices filed in the above-captioned matters are hereby DISMISSED for lack of prosecution.

DATED at Olympia, Washington, this 21st day of December, 1995.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



WALTER M. STUTEVILLE, Examiner

This order will be the final order of the agency unless appealed by filing a petition for review with the Commission pursuant to WAC 391-45-350.
