

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

CITY OF TUKWILA,)	
)	
Employer)	
-----)	
DOUGLAS STEPHEN McNEARY,)	
)	
Complainant,)	CASE 11394-U-94-2673
vs.)	DECISION 5113 - PECB
TEAMSTERS LOCAL UNION 763,)	
)	
Respondent.)	ORDER OF DISMISSAL
-----)	
DOUGLAS STEPHEN McNEARY,)	
)	
Complainant,)	CASE 11395-U-94-2674
vs.)	DECISION 5114 - PECB
CITY OF TUKWILA,)	
)	
Respondent.)	ORDER OF DISMISSAL
-----)	

On October 21, 1994, Douglas Stephen McNeary filed two unfair labor practice complaints with the Public Employment Relations Commission, alleging that Teamsters Local 763 and the City of Tukwila violated RCW 41.56.150(4) and 41.56.140(4). The complaints were reviewed by the Executive Director under WAC 391-45-110, and a preliminary ruling letter issued on March 9, 1995, concluded that the complaints did not state a cause of action. The complainant was advised to consider the WAC 391-45-050(3) requirement for a clear and concise statement of facts constituting the alleged unfair labor practices including times, dates, places, and participants in occurrences. The complainant was given 14 days in which to file and serve amended complaints, or face dismissal of these cases.

The complainant appears to allege that both the City of Tukwila and Teamsters Local 763 committed "refusal to bargain" unfair labor practices. The only facts alleged are (1) Mr. McNeary was told by his immediate supervisor that, due to a misunderstanding and/or miscommunication at Tukwila City Hall, he was accidentally worked over the 1040 hour ceiling limit; and (2) he was laid off. The preliminary ruling letter noted that a "refusal to bargain" charge may be filed by the employer or the exclusive bargaining representative, but not by an employee. Grant County, Decision 2703 (PECB, 1987). Employees have standing to file charges alleging employer or union interference with employee rights, or alleging employer or union discrimination based on union activity, but those were not the allegations in these cases.

Nothing further has been heard or received from the complainant.

NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices filed in the above-entitled matter is hereby DISMISSED for failure to state a cause of action.

DATED at Olympia, Washington, this 12th day of May, 1995.

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.