

STATE OF WASHINGTON  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

KING COUNTY,	)	
	)	
Employer.	)	
-----	)	
TERRY HAMMOND,	)	
	)	
Complainant,	)	CASE 12649-U-96-3019
	)	
vs.	)	DECISION 5720 - PECB
	)	
KING COUNTY,	)	
	)	
Respondent.	)	ORDER OF DISMISSAL
	)	
TERRY HAMMOND,	)	
	)	
Complainant,	)	CASE 12654-U-96-3021
	)	
vs.	)	DECISION 5721 - PECB
	)	
INTERNATIONAL FEDERATION OF	)	
PROFESSIONAL AND TECHNICAL	)	
ENGINEERS, LOCAL 17,	)	
	)	
Respondent.	)	ORDER OF DISMISSAL
	)	

On August 15, 1996, Terry Hammond filed two unfair labor practice complaints with the Public Employment Relations Commission under Chapter 391-45 WAC, both purporting to list Kerry Gallo and Jim Huntsberry as complainants. International Federation of Professional and Technical Engineers, Local 17, was named as the respondent in the complaint docketed as Case 12654-U-96-3021;<sup>1</sup> King County was named as the respondent in the complaint docketed as

<sup>1</sup> On the complaint against the union, Hammond marked boxes to allege "refusal to bargain" and "other unfair labor practice" violations, but added the words "failure to provide representation".

Case 12649-U-96-3019.<sup>2</sup> Hammond identified himself as Shop Steward", but provided no other information from which to evaluate whether he has authority to act on behalf of the union or on behalf of other employees.

The complaints were reviewed for the purpose of making preliminary rulings under WAC 391-45-110.<sup>3</sup> A deficiency notice was sent to the union, the employer, and Hammond on September 20, 1996, pointing out certain inadequacies in the complaints, as filed. A period of 14 days was allowed for the filing and service of amended complaints, and the parties were advised that the complaints would be dismissed in the absence of timely amendments. Nothing further has been received from Hammond.

Neither complaint included a statement of facts or a requested remedy, as required by WAC 391-45-050. That rule includes:

Each complaint shall contain in separate numbered paragraphs:

- ...
- (2) Clear and concise statements of the facts constituting the alleged unfair labor practices, including times, dates, places and participants in occurrences.
  - (3) A statement of the remedy sought by the complainant.

Beyond fundamental concerns for "due process", compliance with those procedural requirements eases communications with and between

---

<sup>2</sup> On the complaint against the employer, Hammond marked boxes to allege "interference", "domination", and "discrimination" violations.

<sup>3</sup> At this stage of the proceedings, all of the facts alleged in the complaint are assumed to be true and provable. The question at hand is whether, as a matter of law, the complaint states a claim for relief available through unfair labor practice proceedings before the Public Employment Relations Commission.

the parties, and is necessary to the overall processing of the cases.

Although Terry Hammond used the title "Shop Steward" in signing these complaints, the fact that the union is being named as a respondent raised a question as to whether Hammond was acting on behalf of the union (as would be implied by the "shop steward" title), or was acting on behalf of the two individual employees named in the complaints. While an individual employee has legal standing to file a complaint asserting his or her own rights, one individual cannot file or process a complaint on behalf of another individual.

The documents attached to the complaint forms indicated that a grievance is being filed regarding a recall from lay-off, under a contractual grievance procedure. The Public Employment Relations Commission does not assert jurisdiction to remedy violations of collective bargaining agreements through the unfair labor practice provisions of the statute. City of Walla Walla, Decision 104 (PECB, 1976). The complaint against the employer thus fails to state a cause of action.

The documents attached to the complaint forms suggest that the complainant is alleging that the union has breached its duty of fair representation in connection with the processing of those grievances. Closely related to the absence of Commission jurisdiction over "violation of contract" disputes, the Public Employment Relations Commission does not assert jurisdiction over "breach of duty of fair representation" claims arising exclusively out of the processing of contractual grievances. Mukilteo School District (Public School Employees of Washington), Decision 1381 (PECB, 1982). Such issues must be processed before a court which could assert jurisdiction over the underlying contract violation.

NOW THEREFORE, it is

ORDERED

The complaints charging unfair labor practices filed in the-above-entitled matters are hereby DISMISSED.

Dated at Olympia, Washington, this 31st day of October, 1996.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

  
MARVIN L. SCHURKE, Executive Director

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.