

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

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|----------------------------|---|----------------------|
| KING COUNTY, |) | |
| |) | |
| Employer. |) | |
| ----- |) | |
| MICHEAL R. JONES, |) | |
| |) | |
| Complainant, |) | CASE 12040-U-95-2830 |
| |) | |
| vs. |) | |
| |) | DECISION 5739 - PECB |
| AMALGAMATED TRANSIT UNION, |) | |
| LOCAL 587, |) | |
| |) | |
| Respondent. |) | ORDER OF DISMISSAL |
| _____ |) | |

On September 14, 1995, Micheal R. Jones filed a complaint charging unfair labor practices with the Public Employment Relations Commission, alleging that Amalgamated Transit Union, Local 587 (union), had breached its duty of fair representation by aligning itself in interest against him.¹ On October 11, 1995, Jones filed a notice naming Mitchell A. Riese as his attorney.

On December 7, 1995, the Executive Director issued a preliminary ruling pursuant to WAC 391-45-110,² finding that a cause of action

¹ On the same day, Jones filed a complaint charging unfair labor practices against King County, alleging interference with his rights. The charges against the employer were docketed as Case 12041-U-95-2831. The cases were consolidated for processing, until Jones withdrew the case against the employer on June 6, 1996.

² At that 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.

existed with respect to several issues outlined in the complaint as filed, but requesting an amended complaint to clarify certain matters.

On December 20, 1995, Mitchell A. Riese withdrew as attorney for Jones and David B. Richardson filed a notice of appearance as attorney for Jones. The time for filing an amended complaint was extended, at his request.

An amended complaint was filed on January 31, 1996. A new preliminary ruling letter was issued on March 4, 1996, again finding that a cause of action existed with respect to several allegations. On March 27, 1996, Martha M. Nicoloff of the Commission staff was designated as Examiner in the matter.

The Examiner conducted a telephone conference call on April 22, 1996, for the purpose of scheduling a hearing. At that time, two potential sets of hearing dates were identified, but the matter was not immediately scheduled due to certain other procedural issues brought forward by the parties.

On July 8, 1996, David B. Richardson withdrew as attorney for Jones. Richardson provided an address in Japan for Jones at that time.

On August 12, 1996, the Examiner notified the parties by letter of her intent to schedule the matter for hearing on October 29, 30, and 31, 1996, which were dates which had been discussed earlier. The Examiner requested that she be notified within 14 days, if those dates were no longer appropriate. The letter was sent to Jones at the address in Japan which had been provided by his former counsel.

No objections were received from the parties concerning the dates in October of 1996 which had been proposed for a hearing. On

September 19, 1996, a notice of hearing was issued for the same dates proposed in the letter dated August 12, 1996. That notice of hearing was reissued to Jones on September 30, 1996, by mailing to an additional address in Japan which had been provided to the Commission.

On October 18, 1996, Jones sent a telefacsimile transmission to the Examiner from Japan, indicating that he had received the documents issued on September 30, 1996. The complainant also indicated that he was attempting to make arrangements to be present at the October hearing, but "it's not for certain". Jones provided the name and telephone number of an attorney in Seattle, whom he had impliedly retained as his new legal counsel.

On October 22, 1996, the Examiner contacted the attorney named by Jones in the telefacsimile received on October 18, 1996. The Examiner was informed by that individual that he was not counsel for Jones in this proceeding.

On October 22, 1996, the Examiner sent a telefacsimile transmission to Jones in Japan, using the telephone number from which the October 18, 1996 telefacsimile transmission had originated. The Examiner therein notified Jones of the conversation with the attorney. The Examiner further informed Jones that he or his representative had to be present at the hearing, as scheduled, or arrange for a continuance. Jones was notified that he would otherwise face dismissal of the complaint for lack of prosecution.

Nothing further was heard or received from Jones prior to the scheduled hearing. The Examiner and the respondent appeared on October 29, 1996, at the time and place scheduled for hearing. Neither Jones nor any individual claiming to be his representative appeared. The respondent thereupon moved for dismissal. That motion was granted by the Examiner.

NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices filed in the above-captioned matter is hereby DISMISSED.

DATED at Olympia, Washington, this 4th day of November, 1996.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


for MARTHA M. NICOLOFF, 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.