

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

PUBLIC SCHOOL EMPLOYEES OF	)	
REARDAN-EDWALL,	)	
	)	
Complainant,	)	CASE 12741-U-96-3060
	)	
vs.	)	DECISION 5750 - PECB
	)	
REARDAN-EDWALL SCHOOL DISTRICT,	)	
	)	
Respondent.	)	ORDER OF DISMISSAL
	)	
	)	

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On October 3, 1996, Public School Employees of Washington Reardan-Edwall, an affiliate of Public School Employees of Washington (union), filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, alleging that the Reardan-Edwall School District (employer) made a unilateral change of employee wages, hours or working conditions, in violation of RCW 41.56.140(4).<sup>1</sup>

The complaint was considered for the purposes of making a preliminary ruling under WAC 391-45-110.<sup>2</sup> A deficiency notice sent to the

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<sup>1</sup> The complaint identifies the bargaining relationship between the employer and union in relation to a certification issued by the Commission on July 31, 1996. Reference is made to another unfair labor practice complaint pending before the Commission, Case 12593-U-96-2997, wherein the union is alleging that union supporter Susan Leonetti was discriminatorily discharged in reprisal for her union activities during the representation campaign which preceded the union's certification.

<sup>2</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.

parties, on October 30, 1996, pointed out several defects which prevented a conclusion that an unfair labor practice could be found:

\* Paragraphs II. through IV. of the complaint filed on October 3, 1996, include allegations concerning the past practices by which "instructional year" employees continued in their jobs from year to year. These are well beyond the period of limitations established in RCW 41.56.160, and were taken to be only background to allegations which follow.

\* Paragraph VI. relates to the discharge of Leonetti, which is the subject of Case 12593-U-96-2997. This paragraph was thus also taken to be only background to other allegations.

\* Paragraph VII. and VIII. make reference to a letter written by the employer's attorney on August 19, 1996, in the context of the Leonetti discharge dispute. An allegation that the August 19 letter constituted a unilateral change of the job security arrangements for bargaining unit employees requires a leap of logic. There were no facts alleged concerning the status of collective bargaining negotiations between the parties, or about positions taken by the employer on job security issues in a bargaining context. Apart from dealing with the status of one classified employee who was accused of refusing to submit to a random substance abuse test authorized and/or required by federal law, there are no facts suggesting a change of practice that is applicable to bargaining unit employees generally. The employer's citation of RCW 28A.400.300 was not, on its face, directed at employees other than Leonetti. The Executive Director must act on the basis of what is contained within the four corners of the statement of facts, and is not at liberty to fill in gaps or make leaps of logic. In the absence of any factual allegations showing communication of a broader change of practice, a position taken in litigation concerning one employee cannot be presumed to be a change affecting the entire bargaining unit. Thus, it was not possible to conclude from the materials on file that a cause of action exists.

The complainant was given a period of 14 days in which to file and serve an amended complaint which stated a cause of action, and was put on notice that failure to do so would result in the dismissal of the case. Nothing further has been received from the complainant on this matter.

NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices filed in the above-captioned matter is hereby DISMISSED as failing to state a cause of action.

ISSUED at Olympia, Washington, this 23rd day of December, 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.