

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

INTERNATIONAL ASSOCIATION OF FIRE
FIGHTERS, LOCAL 27,

Complainant,

vs.

CITY OF SEATTLE,

Respondent.

CASE 22695-U-09-5800

DECISION 10563 - PECB

ORDER OF DISMISSAL

On September 3, 2009, the International Association of Fire Fighters, Local 27, (union) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming the City of Seattle (employer) as respondent. The complaint was reviewed under WAC 391-45-110,¹ and a deficiency notice issued on September 9, 2009, indicated that it was not possible to conclude that a cause of action existed at that time. The union was given a period of 21 days in which to file and serve an amended complaint, or face dismissal of the case.

The union has not filed any further information. The Unfair Labor Practice Manager dismisses the complaint for failure to state a cause of action.

DISCUSSION

The allegations of the complaint concern employer interference with employee rights in violation of RCW 41.56.140(1) and refusal to bargain in violation of RCW 41.56.140(4), by skimming of acting battalion chief work previously performed by fire captains, without providing an opportunity for bargaining. The deficiency notice pointed out the defects to the complaint.

The Commission has previously ruled on a work jurisdiction dispute between a unit of fire battalion chiefs and a non-supervisory firefighter unit. *Kitsap Fire District 7*, Decision 7064-A (PECB, 2001). Both bargaining units claimed the right to overtime opportunities in the other unit. Lieutenants in the non-supervisory unit could serve as acting battalion chiefs, and the battalion chiefs' contract had a

¹ 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.

provision that possibly allowed them to serve as acting lieutenants. In its decision, the Commission ruled that the employer had no duty to engage in tripartite bargaining with both units, and that both units had overreached in claiming work in the other unit. The battalion chiefs had no claim to lieutenant work in the non-supervisory unit, and the lieutenants had no claim to acting battalion chief work.

The Commission’s decision in *Kitsap Fire District 7* dealt primarily with overtime. Local 27’s complaint primarily concerns lost work and pay opportunities. However, the principles set forth in *Kitsap Fire District 7* can be applied to the present case. Here, the only issue presented is whether the employer has a duty to bargain with Local 27 over any agreement it made with the battalion chiefs’ unit concerning acting battalion chief work. The Commission’s decision in *Kitsap Fire District 7* was clear in stating that “each and every battalion chief vacancy” belongs to the unit representing battalion chiefs, and that “[the non-supervisory unit] never acquires any claim to work as acting battalion chief [and] can only bargain with the employer about distributing any ‘acting battalion chief’ assignments which are offered to the members of the bargaining unit it represents.”

Under Commission precedent and the facts presented, the complaint has not stated a cause of action for unfair labor practices. The employer has no duty to bargain with Local 27 concerning acting battalion chief work, since that work belongs exclusively to the bargaining unit representing the battalion chiefs.

NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices in Case 22695-U-09-5800 is DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 13th day of October, 2009.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



DAVID I. GEDROSE, Unfair Labor Practice Manager

This order will be the final order of the agency unless a notice of appeal is filed with the Commission under WAC 391-45-350.