

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

STATE - CORRECTIONS,

Employer.

CHRISTINA ABBY,

Complainant,

vs.

TEAMSTERS, LOCAL 117,

Respondent.

CASE 22825-U-09-5826

DECISION 10612 - PSRA

ORDER OF DISMISSAL

On October 29, 2009, Christina Abby (Abby) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming Teamsters, Local 117 (union) as respondent. The complaint was reviewed under WAC 391-45-110,¹ and a deficiency notice issued on November 4, 2009, indicated that it was not possible to conclude that a cause of action existed at that time. Abby was given a period of 21 days in which to file and serve an amended complaint or face dismissal of the case.

On November 23, 2009, Abby filed an amended complaint. The Unfair Labor Practice Manager dismisses the amended complaint for failure to state a cause of action.

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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.

DISCUSSION

The allegations of the complaint concern union actions against Abby in violation of the provisions of Chapter 41.80 RCW. The deficiency notice pointed out the defects to the complaint, including an apparent lack of jurisdiction by the Commission in this case.

First, complaints must conform to the provisions of WAC 391-45-050 (Rule). Abby did not fill out an unfair labor practice complaint form, and the letter submitted as the complaint does not conform to the Rule.

Second, the Commission does not investigate complaints. Complainants are responsible for the preparation and presentation of their cases before the Commission.

Third, the Commission does not assist parties in obtaining documents under public records requests.

Fourth, it appears that Abby is not a member of the bargaining unit represented by a union. Thus, it is not apparent whether Chapter 41.80 RCW applies to this case.

Fifth, in light of the foregoing, the Commission does not appear to have jurisdiction in this case. The name "Public Employment Relations Commission" is sometimes interpreted as implying a broader scope of authority than is actually conferred upon the agency by statute. The agency does not have authority to resolve each and every dispute that might arise in public employment, but only has jurisdiction to resolve collective bargaining disputes between employers, employees, and unions. Abby must seek a remedy through her employer's policies or the court system.

Amended Complaint

Abby provided a signed complaint form and statement of facts. The amended complaint added charges against the employer for interference with employee rights in violation of RCW 41.80.110(1)(a), domination or assistance of a union in violation of RCW 41.80.110(1)(b),

discrimination in violation of RCW 41.80.110(1)(c), and discrimination for filing charges in violation of RCW 41.80.110(1)(d).

The amended complaint does not cure the jurisdictional issue in this case. Thus, it is unnecessary to address the allegations against the employer or revisit those against the union. The Commission does not have jurisdiction to resolve Abby's claims against either the employer or the union. The Commission's jurisdiction is limited to collective bargaining disputes; the Commission has no authority to assume the powers of the civil courts to adjudicate the claims alleged by Abby against the employer and the union. Abby must seek relief through the federal or state courts.

NOW, THEREFORE, it is

ORDERED

The amended complaint charging unfair labor practices in Case 22825-U-09-5826 is DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 1st day of December, 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.