

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

PROFESSIONAL AND TECHNICAL
ENGINEERS, LOCAL 17,

Complainant,

vs.

PIERCE COUNTY,

Respondent.

CASE 22960-U-10-5854

DECISION 10678 - PECB

ORDER OF DISMISSAL

On January 8, 2010, the Professional and Technical Engineers, Local 17 (union) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming Pierce County as respondent. The complaint was reviewed under WAC 391-45-110,¹ and a deficiency notice issued on January 19, 2010, 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 did not file an amended complaint, but submitted a letter in support of its original complaint. The Unfair Labor Practice Manager dismisses the complaint for failure to state a cause of action.

DISCUSSION

The allegations of the complaint concern employer refusal to bargain in violation of RCW 41.56.140(4) [and if so, derivative “interference” in violation of RCW 41.56.140(1)], by its

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.

unilateral change to medical insurance deductions, without providing an opportunity for bargaining.

The deficiency notice pointed out the defects to the complaint. The employer and union are parties to a current collective bargaining agreement and are negotiating changes to medical plans. The parties entered into a letter of understanding concerning health insurance. The letter of understanding appears to be an amendment to the collective bargaining agreement.

The union alleges that the employer unilaterally implemented the employer's interpretation of the terms of the health insurance letter of understanding. It appears that the union is alleging a breach of the collective bargaining agreement as modified by that letter. The Commission does not assert jurisdiction to remedy violations of collective bargaining agreements through the unfair labor practice provisions of the statute. The Commission interprets collective bargaining statutes, but does not act in the role of arbitrator to interpret collective bargaining agreements. The Commission does not have apparent jurisdiction in this case.

Union Response

On February 9, 2010, the union submitted a letter responding to the deficiency notice, alleging that the health insurance letter of understanding (LOU) was a result of bad faith bargaining, stating that "the unions were held hostage to enter into the interim agreement in order to allow employees to move to a more affordable health care plan until negotiations were completed." A cause of action for breach of an employer's good faith bargaining obligations will be given if the facts indicate that the employer has engaged in specific conduct or a course of conduct that delays or avoids reaching an agreement. Here, the facts indicate that the parties reached an agreement, and the union signed the LOU. The conditions under which the LOU was signed and questions concerning its validity are matters of contract interpretation to be decided by an arbitrator or the courts. The Commission does not have jurisdiction in this case.

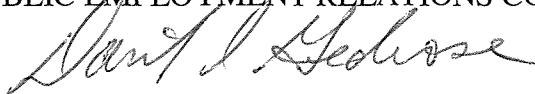
NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices in the above captioned matter is DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 18th day of February, 2010.

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.