

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

AMALGAMATED TRANSIT UNION,
LOCAL 587,

Complainant,

vs.

KING COUNTY,

Respondent.

CASE 23201-U-10-5913

DECISION 10779 - PECB

ORDER OF DISMISSAL

On May 3, 2010, Amalgamated Transit Union, Local 587 (union) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming King County (employer) as respondent. The complaint was reviewed under WAC 391-45-110,¹ and a deficiency notice issued on May 12, 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 has not filed any further information. The Unfair Labor Practice Manager dismisses the complaint for failure to state a cause of action.

DISCUSSION

The deficiency notice pointed out the defects to the complaint.

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.

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 (a) its unilateral change to Policy 79 (leave without pay), without providing an opportunity for bargaining, and (b) its refusal to provide relevant information requested by the union regarding administration of the collective bargaining agreement.

Refusal to Bargain

The complaint concerns the employer’s denial of leave without pay to Patrick Post (Post), and identifies the employer’s assertion that provisions of the collective bargaining agreement (Article 10, section one) allowed it to deny continuation of Post’s leave, based upon his incarceration. The Commission does not assert jurisdiction to remedy violations of collective bargaining agreements through the unfair labor practice provisions of the statute. The Commission acts to interpret collective bargaining statutes and does not act in the role of arbitrator to interpret collective bargaining agreements. Although the union disputes the employer’s contractual defense, an arbitrator would properly decide whether the employer’s actions were or were not protected by the contract. The union should pursue this matter through the contractual grievance and arbitration provisions of the collective bargaining agreement.

Refusal to Provide Information

The complaint alleges that the employer did not respond to its inquiry concerning the date that the employer allegedly notified the union of its intent to change “working conditions and contractual terms” concerning leave without pay as it applied to incarcerated employees. However, the employer’s position is contained in its contractual defense: The employer apparently alleges it had no duty to so inform the union. A cause of action for failure to provide information does not apply in this situation. The questions of whether the employer breached the contract and thus had a duty to notify the union of its actions would be matters for an arbitrator to decide.

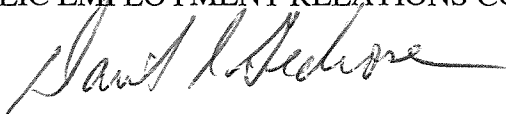
NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices in Case 23201-U-10-5913 is DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 10th day of June, 2010.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

A handwritten signature in black ink, appearing to read "David I. Gedrose", written in a cursive style.

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.



PUBLIC EMPLOYMENT RELATIONS COMMISSION

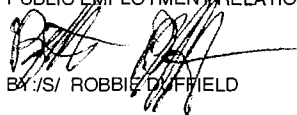
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RECORD OF SERVICE - ISSUED 06/10/2010

The attached document identified as: DECISION 10779 - PECB has been served by the Public Employment Relations Commission by deposit in the United States mail, on the date issued indicated above, postage prepaid, addressed to the parties and their representatives listed in the docket records of the Commission as indicated below:

PUBLIC EMPLOYMENT RELATIONS COMMISSION



BY: /S/ ROBBIE DUFFIELD

CASE NUMBER: 23201-U-10-05913 FILED: 05/03/2010 FILED BY: PARTY 2
DISPUTE: ER MULTIPLE ULP
BAR UNIT: TRANSIT BUS
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