

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

QUAN MINH TRAN,

Complainant,

vs.

SOUTHWEST WASHINGTON AGENCY  
ON AGING AND DISABILITIES,

Respondent.

CASE 23619-U-10-6026

DECISION 10928 - PECB

ORDER OF DISMISSAL

On November 5, 2010, Quan Minh Tran (Tran) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming the Southwest Washington Agency on Aging and Disabilities (employer) as respondent. The complaint was reviewed under WAC 391-45-110,<sup>1</sup> and a deficiency notice issued on November 10, 2010, indicated that it was not possible to conclude that a cause of action existed at that time. Tran was given a period of 21 days in which to file and serve an amended complaint or face dismissal of the case.

On December 2, 2010, Tran submitted documents consisting of a copy of the deficiency notice attached to multiple documents, including a collective bargaining agreement and a description and summary of events. The submission did not constitute an amended complaint under WAC 391-45-050 and WAC 391-45-070. 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.

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<sup>1</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.

WAC 391-45-050 governs the filing of unfair labor practice complaints.

WAC 391-45-050 CONTENTS OF COMPLAINTS.

Each complaint charging unfair labor practices shall contain, in separate numbered paragraphs:

(1) Information identifying the parties and (if known) their representatives, including:

(a) The name, address and telephone number of the employer, and the name, address, telephone number, fax number, and e-mail address of its principal representative;

(b) The name, address and telephone number of the entity (employer or employee organization) accused of committing unfair labor practices (respondent), and the name, address, telephone number, fax number, and e-mail address of its principal representative; and

(c) The name, address, telephone number, fax number, and e-mail address of the party filing the complaint (complainant), and the name, address, telephone number, fax number, and e-mail address of its principal representative.

(2) Clear and concise statements of the facts constituting the alleged unfair labor practices, including times, dates, places and participants in occurrences.

(3) A statement of the remedy sought by the complainant.

(4) The name, signature and, if any, title of the person filing the complaint, and the date of the signature.

(5) Information concerning the parties' relationships, including:

(a) The employer's principal business;

(b) Identification of the employer department or division in which the dispute arises;

(c) The parties' contractual relationship, indicating that:

(i) The parties have never had a contract; or

(ii) A copy of the current (or most recent) collective bargaining agreement is attached;

(d) The status of related grievance proceedings between the parties, indicating that:

(i) No grievance has been filed on the dispute involved; or

(ii) A grievance on the dispute is being processed under the parties' collective bargaining agreement; or

(iii) An arbitration award has been issued on a related grievance;

(e) A description of the bargaining unit involved, specifying inclusions and exclusions; and

(f) The number of employees in the bargaining unit.

(6) Indication of the sections of the Revised Code of Washington (RCW) alleged to have been violated.

One, the complaint does not include, in separate numbered paragraphs, a clear and concise statement of facts including times, dates, places, and participants in occurrences.

Two, the Commission does not have a file copy of the current collective bargaining agreement between the employer and the union.

Three, complaints of this nature shall not be processed for any unfair labor practice occurring more than six months before the filing of the complaint. The complaint does not identify the dates of the alleged unfair labor practices.

Four, the complaint does not include a remedy request.

Five, the complaint does not indicate the sections of the RCW alleged to have been violated.

Tran provided a copy of the collective bargaining agreement and a description and summary of events. The description and summary does not conform to the requirements of WAC 391-45-050(2). Tran also did not include a remedy request and did not indicate the sections of the RCW alleged to have been violated.

NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices in Case 23619-U-10-6026 is DISMISSED for failure to state a cause of action.

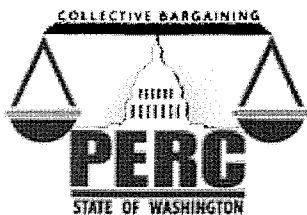
ISSUED at Olympia, Washington, this 9th day of December, 2010.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

A handwritten signature in cursive script, appearing to read "David I. Gedrose".

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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The attached document identified as: DECISION 10928 - 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:  ROBBIE DUFFIELD

CASE NUMBER: 23619-U-10-06026  
DISPUTE: ER DISCRIMINATE  
BAR UNIT: MISCELLANEOUS  
DETAILS: -  
COMMENTS:

FILED: 11/05/2010

FILED BY: PARTY 2

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