

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

SPOKANE POLICE GUILD,

Complainant,

vs.

CITY OF SPOKANE,

Respondent.

CASE 23454-U-10-5981

DECISION 11209 - PECB

ORDER OF DISMISSAL

The complaint charging unfair labor practices in the above-referenced matter was filed with the Public Employment Relations Commission by the Spokane Police Guild (union) on August 18, 2010. The complaint alleged that the City of Spokane (employer) refused to bargain in violation of RCW 41.56.140(4), by its unilateral change in its disciplinary procedures through expanding the powers of the Office of Police Ombudsman (OPO) and changing the requirements to which the OPO was subject, without providing an opportunity for bargaining the change or the effects of the change.

The complaint was reviewed under WAC 391-45-110.¹ A preliminary ruling and deferral inquiry was issued on September 3, 2010, finding a cause of action to exist and providing the employer with an opportunity to file an answer to the complaint. The employer was asked to specify in its answer whether deferral to arbitration was requested. In an answer filed on September 23, 2010, the employer requested that the complaint be deferred to arbitration.

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 complaint and answer were reviewed under WAC 391-45-110(3). On September 29, 2010, the complaint was deferred to arbitration in a ruling that stated, in pertinent part:

4. The parties are to supply the Commission with a copy of any arbitration award resulting from the arbitration proceedings. The Commission reviews the arbitration award to determine its effect, if any, on this unfair labor practice case. The arbitrator draws his or her authority from the collective bargaining agreement, and the question before the arbitrator is the interpretation of the contract. Assuming that the fairness standards for acceptance of an award are otherwise met, the most likely contract interpretations (and their effects on the unfair labor practice case) will be as follows:

.....

If the arbitrator finds the employer's conduct was prohibited by the collective bargaining agreement, the arbitrator will need to remedy the contract violation. The Commission does not assert jurisdiction to remedy violations of collective bargaining agreements through the unfair labor practice provisions of the statute, and the union should anticipate dismissal of the unfair labor practice allegation on a subject that was bargained by the parties and is merely a contract dispute.

On July 12, 2011, the Commission received a copy of an arbitration award of Arbitrator Michael H. Beck. The award sustained the union's grievance, finding that the employer's actions were prohibited by the collective bargaining agreement.

The award has been reviewed under WAC 391-45-110(3). The arbitrator found that the employer's conduct violated the parties' collective bargaining agreement and ordered remedial action. The arbitration award meets the Commission's fairness standards for acceptance of an award under WAC 391-45-110(3)(b). On October 11, 2011, the employer stated that it had fully complied with the arbitrator's opinion and award, and the union confirmed this on October 18, 2011.

NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices in Case 23454-U-10-5981 is DISMISSED.

ISSUED at Olympia, Washington, this 21st day of October, 2011.

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 11209 - 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: 23454-U-10-05981 FILED: 08/18/2010 FILED BY: PARTY 2
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