

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

TEAMSTERS LOCAL 117,

Complainant,

vs.

STATE – CORRECTIONS,

Respondent.

CASE 25184-U-12-6452

DECISION 11582 - PSRA

PRELIMINARY RULING AND
ORDER OF PARTIAL DISMISSAL

On October 4, 2012, Teamsters Local 117 (union) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming the Washington State Department of Corrections (employer) as respondent. The complaint was reviewed under WAC 391-45-110,¹ and a deficiency notice issued on October 16, 2012, indicated that it was not possible to conclude that a cause of action existed at that time for some of the allegations of the complaint. The union was given a period of 21 days in which to file and serve an amended complaint or face dismissal of the defective allegations. The union has not filed any further information.

The Unfair Labor Practice Manager dismisses the defective allegations of the complaint for failure to state a cause of action and finds a cause of action for the allegations of the complaint set forth in the preliminary ruling below. The employer must file and serve its answer to the valid allegations of the complaint within 21 days following the date of this Decision.

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.

DISCUSSIONSupervisory Unit

The allegations of the complaint concern employer refusal to bargain in violation of RCW 41.80.110(1)(e) [and if so, derivative interference in violation of RCW 41.80.110(1)(a)], by breach of its good faith bargaining obligations in negotiating a collective bargaining agreement; and employer interference with employee rights in violation of RCW 41.80.110(1)(a), by threats of reprisal or force or promises of benefit made to all bargaining unit members in discrediting and undermining the union in its negotiations over the aforementioned collective bargaining agreement.

The allegations of the complaint concerning breach of good faith bargaining obligations (and derivative interference) state a cause of action under WAC 391-45-110(2) for further unfair labor practice proceedings before the Commission.

The deficiency notice pointed out the defects regarding the independent interference allegations of the complaint.

Although an interference violation could be found as derivative to a refusal to bargain violation, the union appears to allege employer independent interference in the employer's approach to bargaining through discrediting and undermining the union (Paragraphs 17 and 18 of the statements of facts; Violations Asserted). However, the union does not offer evidence to support its contention that in addition to the employer's alleged refusal to bargain its actions constitute interference with employee rights based upon union activities.

NOW, THEREFORE, it is

ORDERED

1. Assuming all of the facts alleged to be true and provable, the following allegations of the complaint state a cause of action, summarized as follows:

Employer refusal to bargain in violation of RCW 41.80.110(1)(e) [and if so, derivative interference in violation of RCW 41.80.110(1)(a)], by breach of its good faith bargaining obligations in negotiating a collective bargaining agreement;

Those allegations of the complaint will be the subject of further proceedings under Chapter 391-45 WAC.

The Department of Corrections shall:

File and serve its answer to the allegations listed in Paragraph 1 of this Order within 21 days following the date of this Order.

An answer shall:

- a. Specifically admit, deny or explain each fact alleged in the complaint, except if a respondent states it is without knowledge of the fact, that statement will operate as a denial; and
- b. Assert any affirmative defenses that are claimed to exist in the matter.

The answer shall be filed with the Commission at its Olympia office. A copy of the answer shall be served on the attorney or principal representative of the person or organization that filed the complaint. Service shall be completed no later than the day of filing. Except for good cause shown, a failure to file an answer within the time specified, or the failure to file an answer to specifically deny or explain a fact alleged in the complaint, will be deemed to be an admission that the fact is true as alleged in the complaint, and as a waiver of a hearing as to the facts so admitted. WAC 391-45-210.

2. The allegations of the complaint concerning employer interference with employee rights in violation of RCW 41.80.110(1)(a), by threats of reprisal or force or promises of benefit made to all bargaining unit members in discrediting and undermining the union in its negotiations over the aforementioned collective bargaining agreement, are DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 27th day of November, 2012.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



DAVID I. GEDROSE, Unfair Labor Practice Manager

Paragraph 2 will be the final order of the agency on any defective allegations unless a notice of appeal is filed with the Commission under WAC 391-45-350.



PUBLIC EMPLOYMENT RELATIONS COMMISSION

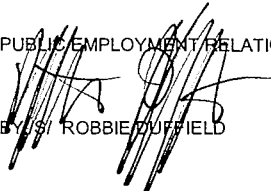
112 HENRY STREET NE SUITE 300
PO BOX 40919
OLYMPIA, WASHINGTON 98504-0919

MARILYN GLENN SAYAN, CHAIRPERSON
PAMELA G. BRADBURN, COMMISSIONER
THOMAS W. McLANE, COMMISSIONER
MIKE SELLARS, EXECUTIVE DIRECTOR

RECORD OF SERVICE - ISSUED 11/27/2012

The attached document identified as: **DECISION 11582 - PSRA** 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: 25184-U-12-06452 FILED: 10/04/2012 FILED BY: PARTY 2
DISPUTE: ER GOOD FAITH
BAR UNIT: SUPERVISORS
DETAILS: Supervisors
COMMENTS:

EMPLOYER: STATE - CORRECTIONS
ATTN: RICK HALL
210 11TH AVE SW STE 331
PO BOX 43113
OLYMPIA, WA 98504-3113
Ph1: 360-725-5540

REP BY: KARI HANSON
OFFICE OF THE ATTORNEY GENERAL
7141 CLEANWATER DR SW
PO BOX 40145
OLYMPIA, WA 98504-0145
Ph1: 360-664-4167 Ph2: 360-664-4189

REP BY: DENISE R PRUITT
OFFICE OF THE ATTORNEY GENERAL
7141 CLEANWATER DRIVE SW
PO BOX 40145
OLYMPIA, WA 98504-0145
Ph1: 360-664-4167

PARTY 2:
ATTN: TEAMSTERS LOCAL 117
TRACEY THOMPSON
14675 INTERURBAN AVE S STE 307
TUKWILA, WA 98168-4614
Ph1: 206-441-4860

REP BY: SPENCER NATHAN THAL
TEAMSTERS LOCAL 117
14675 INTERURBAN AVE S STE 307
TUKWILA, WA 98168
Ph1: 206-441-4860