

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

SEATTLE-KING COUNTY BUILDING  
AND CONSTRUCTION TRADES  
COUNCIL,

Complainant,

vs.

SEATTLE SCHOOL DISTRICT,

Respondent.

CASE 25223-U-12-6457

DECISION 11583 - PECB

ORDER OF DISMISSAL

On October 16, 2012, the Seattle-King County Building and Construction Trades Council (union) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming the Seattle School District (employer) as respondent. The complaint was reviewed under WAC 391-45-110,<sup>1</sup> and a deficiency notice issued on October 25, 2012, 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 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

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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.

skimming of rigging work previously performed by bargaining unit members, without providing an opportunity for bargaining.

The deficiency notice pointed out the defects to the complaint.

It is a violation of RCW 41.56.140(4) for an employer to transfer bargaining unit work to non-bargaining unit employees (skimming), without providing an opportunity for bargaining. The statement of facts alleges that “On or about April 16, 2012, the Employer informed the Union that it would thereafter assign rigging work as it saw fit, including to employees outside of the Unit.” The union alleges that “By its action on April 16, 2012, the Employer implemented its plan to engage in unlawful skimming of bargaining unit work.”

The statement of facts does not provide information on whether the employer has actually transferred work to employees outside the bargaining unit, including times, dates, places, and participants, as required under WAC 391-45-050(2).

The statement of facts does not provide information regarding a demand to bargain by the union, and the employer’s response to said demand.

NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices in Case 25223-U-12-6457 is DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 28th day of November, 2012.

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.