

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

INLANDBOATMEN'S UNION OF THE  
PACIFIC,

Complainant,

vs.

WASHINGTON STATE FERRIES,

Respondent.

CASE 25235-U-12-6463

DECISION 11592 - MRNE

ORDER OF DISMISSAL

On October 19, 2012, Inlandboatmen's Union of the Pacific (union) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming Washington State Ferries (employer) as respondent. The complaint was reviewed under WAC 391-45-110,<sup>1</sup> and a deficiency notice issued on November 7, 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 47.64.130(1)(e) [and if so, derivative interference in violation of RCW 47.64.130(1)(a)], by its unilateral change concerning safety vests without providing an opportunity for bargaining, and refusing to provide relevant information requested by the union concerning the safety vests.

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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.

The deficiency notice pointed out the defects to the complaint. The complaint appears to be premature.

The union filed the complaint on October 19, 2012, and has not filed further information as of the date of this ruling. The statement of facts alleges that on September 14, 2012, the employer proposed to limit the number of safety vests issued to bargaining unit members. The union responded on September 21, 2012, stating that the number of safety vests has never been limited, that the matter is a mandatory subject of bargaining, and that the union would not agree to the employer's proposal. On October 9, 2012, the union requested information about the safety vests; the union states that the employer had not responded at the time the union filed this complaint. On October 12, the employer contacted the union to discuss the issue of safety vests, and the parties scheduled a bargaining session for October 25, 2012.

Unfair labor practices in violation of RCW 47.64.130(1)(e) may be found if an employer makes a unilateral change to a mandatory subject of bargaining without providing an opportunity for bargaining, and refuses to provide relevant information requested by the union over collective bargaining issues. In order to state causes of action, a complaint must show that an actual change has occurred, and that the request for information was rejected, that there was no response, or that the response was incomplete or unduly delayed.

Regarding the unilateral change claim, the employer apparently put the union on notice of an intended change regarding safety vests; however, the change has not occurred, and the parties were set to bargain over the issue six days after the complaint was filed. The union has not stated a cause of action for a unilateral change without the opportunity for bargaining.

Regarding the information claim, ten days passed between the union's request for information and its filing of the complaint. The union has not provided sufficient information to show that the employer's lack of response in the period between the union's initial request and its filing of the complaint could, standing alone, state a cause of action for refusal to provide information

NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices in Case 25235-U-12-6463 is DISMISSED for failure to state a cause of action.

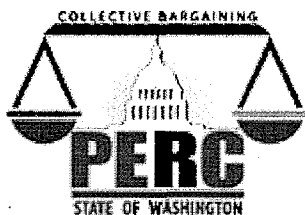
ISSUED at Olympia, Washington, this 5<sup>th</sup> day of December, 2012.

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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PUBLIC EMPLOYMENT RELATIONS  
COMMISSION

*[Signature]*  
P. W. S. ROBBIE DUFFIELD

CASE NUMBER: 25235-U-12-06463      FILED: 10/19/2012      FILED BY: PARTY 2  
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