

City of Spokane, Decision 11673 (PECB, 2013)

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

INTERNATIONAL ASSOCIATION OF
FIRE FIGHTERS, LOCAL 29,

Complainant,

vs.

CITY OF SPOKANE,

Respondent.

CASE 25447-U-13-6512

DECISION 11673 - PECB

ORDER DENYING MOTION

Robblee Detwiler & Black, P.L.L.P., by *SaNni M-K Lemonidis and Terry C. Jensen*, Attorneys at Law, for the union.

Summit Law Group, P.L.L.C., by *Elizabeth R. Kennar*, Attorney at Law, for the employer.

On December 14, 2012, the International Association of Fire Fighters, Local 29 (union) filed an unfair labor practice complaint against the City of Spokane (employer). The Unfair Labor Practice Manager reviewed the complaint in accordance with WAC 391-45-110 and issued a partial deficiency notice. On January 14, 2013, the union filed an amended complaint. On January 23, 2013, the Unfair Labor Practice Manager issued a decision finding a cause of action existed for employer refusal to bargain by a unilateral change.

On January 28, 2013, the union filed notice of an intent to file a motion for temporary relief. On February 5, 2013, the union filed a motion for temporary relief under WAC 391-45-430. On February 12, 2013, the employer filed its response to the union's motion. Executive Director Michael P. Sellars forwarded the matter to the Commission for consideration. The Commission has considered the parties' briefs, affidavits, and arguments.

In its unfair labor practice complaint, the union alleged that the employer unilaterally changed which apparatus responds to Emergency Medical Services (EMS) calls. The union alleged that employees had been allowed to respond to EMS calls with fire engines and ladder trucks. The employer changed that practice to require employees to respond with smaller apparatuses. The union alleges that responding to EMS calls in smaller vehicles would expose them to injury if required to respond to a fire call while still driving the smaller vehicle. The union requests that the Commission seek a motion for temporary relief to prevent the employer from continuing to implement the changes to responding to EMS calls.

The Commission is empowered to prevent unfair labor practices and may petition the superior court for appropriate temporary relief. RCW 41.56.160. In rare circumstances, the Commission grants a request for temporary relief. *See Olympia School District*, Decision 517-H (EDUC, 1978); *Steilacoom Historical School District*, Decision 2527 (EDUC, 1986); *City of Tacoma*, Decision 5686 (PECB, 1996).

WAC 391-45-430 governs motions for temporary relief. The Commission does not grant temporary relief unless it appears that one or more of the allegations in the unfair labor practice complaint “is of such a nature that, if sustained, the complainant would have no fair or adequate remedy and the complainant would suffer irreparable harm unless the status quo” is preserved pending the completion of the administrative proceedings. WAC 391-45-430(5). If the Commission determines that temporary relief should be sought, the Executive Director, with the assistance of the Attorney General, shall petition the superior court for an injunction pendente lite. WAC 391-45-430(5)(a).

The Commission is not prejudging the merits of the case. In viewing the extensive briefing and declarations the parties submitted, a question exists as to whether the complaint will be sustained. We do not take allegations of safety concerns lightly. However, the union has failed to establish that it lacks an adequate remedy to the unfair labor practice complaint and would suffer irreparable harm if the status quo is not maintained until the completion of the administrative proceedings.

NOW, THEREFORE, it is

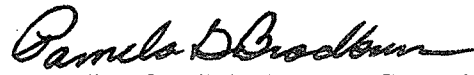
ORDERED

The motion for temporary relief is DENIED.

ISSUED at Olympia, Washington, this 28th day of February, 2013.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


MARILYN GLENN SAYAN, Chairperson


PAMELA G. BRADBURN, Commissioner


THOMAS W. McLANE, Commissioner



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MIKE SELLARS, EXECUTIVE DIRECTOR

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PUBLIC EMPLOYMENT RELATIONS COMMISSION

BY: /S/ ROBBIE DUFFIELD

CASE NUMBER: 25447-U-13-06512 FILED: 02/05/2013 FILED BY: PARTY 2
DISPUTE: ER MULTIPLE ULP
BAR UNIT: FIREFIGHTERS
DETAILS: Motion for Temporary Relief
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