

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

WASHINGTON STATE NURSES
ASSOCIATION,

Complainant,

vs.

KITTITAS PUBLIC HOSPITAL
DISTRICT 1,

Respondent.

CASE 26143-U-13-6689

DECISION 11979 - PECB

ORDER OF DISMISSAL

On December 16, 2013, the Washington State Nurses Association (union) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming Kittitas Public Hospital District 1 (employer) as respondent. The complaint was reviewed under WAC 391-45-110,¹ and a deficiency notice issued on December 27, 2013, 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 interference with employee rights in violation of RCW 41.56.140(1), by threats of reprisal or force or promises of benefit made to all bargaining unit members regarding the posting of union materials on the employer's property.

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 deficiency notice pointed out the defects to the complaint.

The complaint alleges that the employer does not allow the union to post its materials on the employer's premises, but does allow the posting of non-union related materials by employees. The complaint states that the parties' most recent collective bargaining agreement was effective on January 1, 2009, expired on December 31, 2011, and that the employer's posting policy has been maintained "within the six months preceding the filing of this unfair labor practice complaint." Material attached to the complaint indicates that the employer's posting policy was effective on June 22, 2004.

WAC 391-45-050(2) (rule) requires statements of facts to include dates of alleged violations. General statements alleging violations "within the past six months," or the like, are not sufficient to establish a timely-filed complaint under the rule. In addition, under RCW 41.56.160(1), complaints must be filed within six months of when the complainant knew, or should have known, of the alleged violation. The complaint was filed on December 16, 2013. The facts presented by the union indicate that the union knew, or should have known, of the employer's posting policy several years prior to June 16, 2013. The complaint appears to be untimely.

NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices in Case 26143-U-13-6689 is DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 28th day of January, 2014.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



DAVID I. GEDROSE, Unfair Labor Practice Manager

This 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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PO BOX 40919
OLYMPIA, WASHINGTON 98504-0919

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THOMAS W. McLANE, COMMISSIONER
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MIKE SELLARS, EXECUTIVE DIRECTOR

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PUBLIC EMPLOYMENT RELATIONS
COMMISSION



BY: /S/ DIANE THOVSEN

CASE NUMBER:	26143-U-13-06689	FILED:	12/16/2013	FILED BY:	PARTY 2
DISPUTE:	ER INTERFERENCE				
BAR UNIT:	NURSE RN				
DETAILS:	-				
COMMENTS:					
EMPLOYER:	KITTITAS PUB HOSP DIST 1				
ATTN:	KIRK R ESLINGER KITTITAS VALLEY HEALTHCARE 603 S CHESTNUT ST ELLENSBURG, WA 98926 Ph1: 509-962-7415				
PARTY 2:	WA STATE NURSES ASSN				
ATTN:	JUDY HUNTINGTON 575 ANDOVER PARK W STE 101 SEATTLE, WA 98188 Ph1: 206-575-7979				
REP BY:	TIMOTHY SEARS WA STATE NURSES ASSN 575 ANDOVER PARK W STE 101 SEATTLE, WA 98188-3321 Ph1: 206-575-7979				