

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

BENTON COUNTY,

Complainant,

CASE 26466-U-14-6753

vs.

DECISION 12096 - PECB

TEAMSTERS LOCAL 839,

Respondent.

PRELIMINARY RULING AND ORDER
OF PARTIAL DISMISSAL

On May 9, 2014, Benton County (employer) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming Teamsters Local 839 (union) as respondent. The complaint was reviewed under WAC 391-45-110,¹ and a deficiency notice issued on May 21, 2014, 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 employer was given a period of 21 days in which to file and serve an amended complaint or face dismissal of the defective allegations.

The employer 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 valid allegations of the complaint as set forth in the preliminary ruling below. The union must file and serve its answer to 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.

DISCUSSION

The allegations of the complaint concern union refusal to bargain in violation of RCW 41.56.150(4) [and derivative interference in violation of RCW 41.56.150(1)], by breach of its good faith bargaining obligations regarding limited issues open to negotiations under the parties' collective bargaining agreement; and union inducement of the employer to commit an unfair labor practice in violation of RCW 41.56.150(2) [and derivative interference in violation of RCW 41.56.150(1)], by its actions regarding limited issues open to negotiations under the parties' 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 to the allegations concerning inducement to commit an unfair labor practice (and derivative interference). That aspect of the complaint is defective.

A cause of action for union inducement of the employer to commit an unfair labor practice is limited to collective bargaining issues and requires a showing that the union requested that the employer take action that is unlawful under a collective bargaining statute—in this case, Chapter 41.56 RCW. The statement of facts does not indicate that the union requested the employer to commit an unfair labor practice.

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:

Union refusal to bargain in violation of RCW 41.56.150(4) [and derivative interference in violation of RCW 41.56.150(1)], by breach of its good faith bargaining obligations regarding limited issues open to negotiations under the parties' collective bargaining agreement.

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

Teamsters Local 839 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 union inducement of the employer to commit an unfair labor practice in violation of RCW 41.56.150(2) [and derivative interference in violation of RCW 41.56.150(1)], by its actions regarding limited issues open to negotiations under the parties' collective bargaining agreement, are DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 20th day of June, 2014.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



DAVID I. GEDROSE, Unfair Labor Practice Manager

Paragraph 2 of this order dismissing the defective allegations 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

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

MARILYN GLENN SAYAN, CHAIRPERSON
THOMAS W. McLANE, COMMISSIONER
MARK E. BRENNAN, COMMISSIONER
MIKE SELLARS, EXECUTIVE DIRECTOR

RECORD OF SERVICE - ISSUED 06/20/2014

The attached document identified as: **DECISION 12096 - PECB** 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: /S/ DIANE THOVSEN

CASE NUMBER: 26466-U-14-06753 FILED: 05/09/2014 FILED BY: EMPLOYER
DISPUTE: UN GOOD FAITH
BAR UNIT: CLERICAL
DETAILS: -
COMMENTS:

EMPLOYER: BENTON COUNTY
ATTN: BENTON COUNTY COMMISSIONERS
PO BOX 190
PROSSER, WA 99350
Ph1: 509-786-5600

REP BY: STEPHEN HALLSTROM
BENTON COUNTY
PROSECUTING ATTORNEY'S OFFICE
7122 W OKANOGAN PLACE BLDG A
KENNEWICK, WA 99336
Ph1: 509-735-3591

PARTY 2: TEAMSTERS LOCAL 839
ATTN: ROBERT HAWKS
1103 W SYLVESTER ST
PASCO, WA 99301-4873
team839@msn.com
Ph1: 509-547-7513

REP BY: DAVID BALLEW
REID PEDERSEN MCCARTHY BALLEW
100 W HARRISON ST
NORTH TOWER STE 300
SEATTLE, WA 98119-4143
Ph1: 206-285-3610