

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

GRANT COUNTY, Employer.	
DANA BRINK, Complainant, vs. TEAMSTERS LOCAL 760, Respondent.	CASE 26866-U-14-6850 DECISION 12267 - PECB ORDER OF DISMISSAL

Dana Brink (complainant) filed an unfair labor practice complaint and amended complaint against Teamsters Local 760 (union). The complaint expressed dissatisfaction with the certification of the Community Support Specialist bargaining unit and raised concerns about union contract ratification vote process. The Unfair Labor Practice Manager reviewed the case and dismisses the amended complaint for failure to state a cause of action within the Commission's jurisdiction.

BACKGROUND

On November 20, 2014, the complainant filed a complaint with the Public Employment Relations Commission against the union. The complainant alleged that the union engaged in unfair labor practices under RCW 41.56.150 and WAC 391-45-110. Specifically, the complainant alleged that the union certification process for this bargaining unit was conducted in a manner that was deceitful and neglectful and did not represent the group accurately. It also alleged the union contract is not supported by over half of the bargaining unit.

The complaint was reviewed under the preliminary ruling process described in WAC 391-45-110. At the preliminary ruling 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. On December 9, 2014, the complainant was notified that it was not possible to conclude that a cause of action existed at that time. The complainant was given 21 days to file an amended complaint or face dismissal.

The complainant filed an amended statement of facts on January 2, 2015. The amended complaint alleges that the process the union used to become the collective bargaining representative of the Community Support Specialist bargaining unit was unfair and deceitful. It also alleges that the union's internal process of voting to accept the contract was unfair, secretive, and poorly communicated to employees.

The Unfair Labor Practice Manager carefully reviewed the allegations in the amended complaint and compared them with Commission case law and Chapter 41.56 RCW. The complaint still fails to state a cause of action within the Commission's jurisdiction. Therefore, the complaint is dismissed.

DISCUSSION

Timeliness

There is a six month statute of limitations for unfair labor practice complaints. As explained in RCW 41.56.160(1):

[A] complaint shall not be processed for any unfair labor practice occurring more than six months before the filing of the complaint with the commission. This power shall not be affected or impaired by any means of adjustment, mediation or conciliation in labor disputes that have been or may hereafter be established by law.

The complaint was filed on November 20, 2014, and therefore is only timely with regards to events that took place on or after May 20, 2014. The union organizing and certification allegations are untimely because they that took place in 2013.

Union was Lawfully Certified as Employees' Bargaining Representative

Commission case records show that employees were notified of the cross-check process by a posting in the workplace that was posted for 7 days prior to the tally of cross-check that was conducted. The tally of the cross-check for this bargaining unit was issued and sent out on July 29, 2013.¹

As part of the cross-check process, the Commission reviewed the cards signed by employees and found that the wording on the authorization cards submitted as the showing of interest in this case clearly indicate that, by signing the card, the employee wishes to be represented by the Teamsters Local 760, for the purposes of collective bargaining. Just as people can be expected to attach importance to checks, contracts, and other documents they sign in the course of their personal business affairs, employees can be expected to read and give importance to authorization cards they sign for a union. *Grant County*, Decision 11820 (PECB, 2013).

Examination of the case file indicated that the union submitted a showing of interest in excess of the 70 percent required by WAC 391-25-391. If employees desired to withdraw their authorization cards in advance of a cross-check, there was a notice to employees posted in their work place for 7 days instructing them that “[t]he cross-check will occur no sooner than July 29, 2013. The Commission shall honor a valid revocation of authorizations cards for the purposes of a cross-check. (WAC 391-25-410).” The procedure for employees to revoke their authorization cards is detailed in WAC 391-25-410(2). *Grant County*, Decision 11820.

On August 6, 2013, the Commission certified the union as the representative for:

All full-time and regular part-time Community Support Specialists employed by Grant County Integrated Services, excluding supervisors, confidential employees, and all other employees.²

¹ Case 25745-E-13-3798.

² *Grant County*, Decision 11843 (PECB, 2013).

If the employees had objections after the certification was issued the rules require that objections be filed within seven days of the tally being served. As stated in WAC 391-25-590: “The due date for objections is seven days after the tally has been served under WAC 391-25-410 or under 391-25-550 The time period for objections cannot be extended.” The objections to the process of signing authorization cards and the cross-check tally that are described in the complaint are untimely under the rules.

The complainant’s objections to the initial union certification for the Community Support Specialist bargaining unit are not timely. The union is the lawfully certified collective bargaining representative of this bargaining unit of Community Support Specialists.

Union Contract Ratification Vote

The complainant also raises concerns about the internal union contract ratification process and voting. The complaint alleges that the union’s internal process of voting to accept the contract was unfair, secretive, and poorly communicated to employees.

Chapter 41.56 RCW regulates relationships between employers and employees, and regulates relationships between employers and the organizations representing their employees, but does very little in the arena of regulating the internal affairs of labor organizations. Internal union voting procedure for assessing membership support of a contract agreement is governed by the union’s own constitution and by-laws. How or if a union conducts a contract ratification vote is a matter of internal union affairs. No statute compels employee ratification votes on tentative agreements reached by unions and employers in collective bargaining. *Western Washington University*, Decision 8849-B (PSRA, 2006), *citing Naches Valley School District*, Decision 2516-A (EDUC, 1987).

Although unions can acquire the statutory status of exclusive bargaining representative of public employees under Chapter 41.56 RCW, and then have a statutory duty of fair representation toward the employees in the bargaining unit(s) they represent under that statute, unions are fundamentally private organizations. The constitutions and by-laws of unions are the contracts among their members, controlling how their private organization is to be operated. Because the Commission

generally lacks jurisdiction over disputes concerning violations of union constitutions and by-laws, those claims must be adjudicated under procedures internal to those organizations or through the courts. *Lake Washington School District*, Decision 6891 (PECB, 1999).

In addition to addressing subject matter outside of the Commission's jurisdiction, the contract ratification allegation also does not meet requirements of WAC 391-45-050(2), which requires a complaint to contain "Clear and concise statements of the facts constituting the alleged unfair labor practices, including times, dates, places, and participants in occurrences." The allegation concerning the contract ratification vote lacks a date of occurrence and therefore failed to comply with WAC 391-45-050. As a result it is not possible to conclude that the contract ratification allegation was timely filed.

CONCLUSION

The union was lawfully certified as collective bargaining representative of this bargaining unit of Community Support Specialists on August 6, 2013. The complainant's objections to the initial certification for the Community Support Specialist bargaining unit are not timely. The Commission's jurisdiction is limited to the resolution of collective bargaining disputes between employers, employees, and unions taking place in the six months before the filing of the complaint.

A contract ratification vote process for bargaining unit members is a matter of internal union affairs that is governed by the union's own constitution and by-laws. Disputes concerning violations of union constitutions and by-laws must be adjudicated under procedures internal to those organizations or through the courts. *Lake Washington School District*, Decision 6891 (PECB, 1999).

Assuming all the facts were true and provable, the complaints and amended complaints do not state a cause of action.

NOW, THEREFORE, it is

ORDERED

The complaint and amended complaint charging unfair labor practices in the above captioned matter are DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 6th day of February, 2015.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

A handwritten signature in black ink, appearing to read "J. Bradley", is written over the printed name.

JESSICA J. BRADLEY, 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.



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PUBLIC EMPLOYMENT RELATIONS
COMMISSION

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CASE NUMBER: 26866-U-14-06850 FILED: 11/20/2014 FILED BY: PARTY 2
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