

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

TEAMSTERS LOCAL 760,

Complainant,

vs.

CHELAN COUNTY,

Respondent.

CASE 26727-U-14-6813

DECISION 12194 - PECB

ORDER OF DISMISSAL

On September 12, 2014, Teamsters Local 760 (union) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming Chelan County (employer) as respondent. The complaint was reviewed under WAC 391-45-110,¹ and a deficiency notice issued on October 2, 2014, indicated that it was not possible to conclude that a cause of action existed because the complaint was missing important information, including dates of events and names of employer officials alleged to have engaged in direct dealing. The union was given a period of 21 days in which to file and serve an amended complaint, or face dismissal of the case.

No further information has been filed by the union. The Unfair Labor Practice Manager dismisses the complaint for failure to state a cause of action.

DISCUSSION

The allegations of the complaint concern:

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.

Employer refusal to bargain in violation of 41.56.140(4) [and derivative interference in violation of RCW 41.56.140(1)], by employer circumvention of the union through direct dealing over light duty assignment with Roger Baird, an employee represented by the union.

The deficiency notice pointed out several defects with the complaint. Specifically, the complaint lacks important details including:

- 1) Dates of alleged occurrences.
- 2) Name(s) of employer official(s) alleged to have engaged in direct dealing over the light duty assignment.

WAC 391-45-050(2) requires the complainant to include “[c]lear and concise statements of the facts constituting the alleged unfair labor practices, including times, dates, places and participants in occurrences.”

Dates of Occurrences/Timeliness

A complaint must contain the dates of occurrences so that the allegation may be reviewed for timeliness. There is a six month statute of limitations for ULP 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.

In this case the complaint is vague and does not contain the dates that the alleged unfair labor practices took place. Because the complaint lacks specific dates of alleged unfair labor practice violations, it is not possible to conclude whether the complaint is timely filed.

Identity of Participants in Alleged Violation

Additionally, the failure to identify employer officials who are alleged to have committed the unfair labor practice violations is problematic. The rule requires the complainant to identify

alleged participants. The identity of employer officials is information that the employer needs to look into and to respond to the complaint. In order to attribute an action to the employer it is critical that the complainant identify who was acting on behalf of the employer. The union's failure to identify any employer officials as participants is also a significant deficiency in this complaint.

CONCLUSION

This complaint is being dismissed because it does not have a "[c]lear and concise statements of the facts constituting the alleged unfair labor practices, including times, dates, places and participants in occurrences." WAC 391-45-050(2). It is not possible to conclude whether the complaint is timely filed because the complaint lacks dates of alleged unfair labor practice violations. It also is not possible to determine whether the employer took any action, because no employer participants are identified in the complaint.

NOW, THEREFORE, it is

ORDERED

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

ISSUED at Olympia, Washington, this 4th day of November, 2014.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

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.