

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

SCOTT BRUTON,

Complainant,

vs.

CITY OF SNOQUALMIE,

Respondent.

CASE 127819-U-16

DECISION 12554 - PECB

ORDER OF DISMISSAL

On January 7, 2016, Scott Bruton (complainant) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming the City of Snoqualmie (employer) as respondent. The complaint was reviewed under WAC 391-45-110,¹ and a deficiency notice issued on January 21, 2016, indicated that it was not possible to conclude a cause of action existed at that time. The complainant 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 complainant. The Unfair Labor Practice Manager dismisses the complaint for failure to state a cause of action for further case processing.²

DISCUSSION

The allegations of the complaint concern:

Employer interference with employee rights since July 13, 2015, by assigning mandatory workdays on scheduled days off in violation of Articles 4.1 and 5.2 of the collective bargaining agreement (CBA).

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.

² In this case the complainant submitted a two-page statement of facts without any numbering on the first page. Although the lack of numbering is not the reason for dismissal of this complaint, it is worth noting that numbering all of the paragraphs is important to allow a respondent to reference and respond to specific allegations within a complaint. See WAC 391-45-050.

Employer interference with employee rights since August 3, 2015, by failing to respond to a grievance filed by Scott Bruton as required by the grievance process contained in the CBA.

The complaint raises contract violation allegations that are outside of the Commission's jurisdiction in an unfair labor practice case.

Alleged Contract Violations

Legal Standard

In processing unfair labor practice cases, the Commission interprets and administers collective bargaining statutes but does not act in the role of arbitrator to interpret or enforce collective bargaining agreements. *State – Corrections (Teamsters Local 313)*, Decision 8581 (PSRA, 2004), citing *Clallam County*, Decision 607-A (PECB, 1979); *City of Seattle*, Decision 3470-A (PECB, 1990); *Bremerton School District*, Decision 5722-A (PECB, 1997). The Commission does not assert jurisdiction to remedy violations of collective bargaining agreements through the unfair labor practice provisions of the statute. *City of Walla Walla*, Decision 104 (PECB, 1976).

Analysis

The complaint alleges violations of the parties' CBA. Specifically, the complaint alleges that the employer violated the CBA by mandating officers to work multiple off-duty events. On July 27, 2015, the complainant filed a grievance regarding mandatory workdays on scheduled days off. On August 3, 2015, the employer denied the grievance. The complaint alleges that the employer failed to respond to the grievance as required by step 2 of the grievance process and missed the response deadlines contained in the CBA.

Allegations that an employer violated sections of a CBA are not matters that the Commission can address. Remedies for contract violations must be sought through the grievance and arbitration machinery within the contract or through the courts. The allegations concerning violations of the CBA by the employer do not state causes of action before the Commission. *Lake Washington School District*, Decision 6312 (EDUC, 1998).

CONCLUSION

The complaint describes a potential contract violation and an employee's frustration with untimely processing of a related grievance by the employer. The Commission does not remedy violations of collective bargaining agreements or enforce contractual grievance procedures through unfair labor practice proceedings. The allegations of the complaint concerning violations of the CBA and untimely grievance processing by the employer do not state causes of action for further case processing under RCW 41.56.140.

ORDER

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 17th day of March, 2016.

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.



PUBLIC EMPLOYMENT RELATIONS COMMISSION

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RECORD OF SERVICE - ISSUED 03/17/2016

DECISION 12554 - PECB has been mailed by the Public Employment Relations Commission to the parties and their representatives listed below:

BY: VANESSA SMITH

CASE NUMBER: 127819-U-16

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