

University of Washington, Decision 11824-A (PSRA, 2013)

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

WASHINGTON FEDERATION OF
STATE EMPLOYEES,

Complainant,

vs.

UNIVERSITY OF WASHINGTON,

Respondent.

CASE 25697-U-13-6581

DECISION 11824-A - PSRA

DECISION OF COMMISSION

Younglove & Coker, P.L.L.C., by *Edward Earl Younglove III*, for the union.

Attorney General Robert W. Ferguson, by *Mark K. Yamashita*, Assistant Attorney General, for the employer.

The Washington Federation of State Employees (union) filed an unfair labor practice complaint on May 6, 2013. The Unfair Labor Practice Manager reviewed the complaint pursuant to WAC 391-45-110 and issued a deficiency notice on May 28, 2013. On June 17, 2013, the union filed an amended complaint. After reviewing the amended complaint, the Unfair Labor Practice Manager dismissed the complaint.¹ The union appealed.

The allegations in the complaint and amended complaint relate to *University of Washington*, Decision 10726-A (PSRA, 2010) and Decision 10726-A (PSRA, 2012). In 2008, the employer and union negotiated “early money” for certain employees. The employer paid the early money until January 2009, and then withdrew the increase without bargaining. An Examiner held that the employer unilaterally changed wages. The Order required the employer to (1) pay back pay from January 2009 through June 2009, (2) “bargain in good faith over wages for the affected employees for the 2009-2011” CBA, and (3) give notice and, upon request, negotiate before

¹ *University of Washington*, Decision 11824 (PSRA, 2013).

unilaterally changing employees' wages. The employer appealed the Examiner's decision. The Commission affirmed the Examiner and the Order. The employer appealed the decision to King County Superior Court. The Superior Court affirmed.

Compliance is currently in process for Decisions 10726 and 10726-A. The back pay, reading, and posting portions of compliance have been completed. Bargaining in accordance with the Order has not occurred. Compliance has not yet been tendered.

The union's complaint concerns a memorandum of understanding (MOU) signed on April 6, 2011, the payment of wages under that MOU, the payment of wages after June 30, 2009, and bargaining over wages.

On April 6, 2011, the parties agreed that the employer would "implement any such decision of the PERC during the course of an appeal. Should the employer prevail in the appeal, it will not be required to continue any practices it had initiated as a result of the PERC decision." The union alleged that the employer negotiated the April 2011 agreement in bad faith; that the employer did not pay the higher wages in accordance with the MOU; and that while the employer was not paying the wage increase the union "had no reason to believe at that time" that the employer did not intend to pay the employees a higher wage if the decisions were affirmed on appeal.² The union asserts that its complaint is timely because it only had knowledge in March 2013 that the employer did not intend to honor the April 2011 MOU. Allegations about the MOU are untimely.

In March 2013, the employer notified the union that it would comply with the Examiner's Order and paid back pay, as ordered by the Examiner, for the period January – June 2009. The union alleges that the employer paid the employees back pay, but is not continuing to pay employees the higher wages. According to the union, this failure to continue to pay higher wages is a unilateral change. However, at the time the Examiner issued her decision, the union was on notice that the back pay order was for a specified period of time. The union did not appeal the Order.

² The union grieved and arbitrated the employer's alleged breach of the MOU.

The union's complaints do not state a cause of action. The allegation that the employer has not initiated bargaining as ordered in Decisions 10726 and 10726-A is an issue to be addressed through the compliance procedure.

NOW, THEREFORE, it is

ORDERED

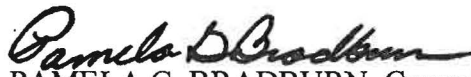
The Order of Dismissal issued by Unfair Labor Practice Manager David I. Gedrose is AFFIRMED.

ISSUED at Olympia, Washington, this 13th day of September, 2013.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARILYN GUENN SAYAN, Chairperson



PAMELA G. BRADBURN, Commissioner



THOMAS W. McLANE, Commissioner



PUBLIC EMPLOYMENT RELATIONS COMMISSION

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

MARILYN GLENN SAYAN, CHAIRPERSON
PAMELA G. BRADBURN, COMMISSIONER
THOMAS W. McLANE, COMMISSIONER
MIKE SELLARS, EXECUTIVE DIRECTOR

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PUBLIC EMPLOYMENT RELATIONS COMMISSION


BY: MAJEL C. BOUDIA

CASE NUMBER: 25697-U-13-06581 FILED: 05/06/2013 FILED BY: PARTY 2
DISPUTE: ER MULTIPLE ULP
BAR UNIT: MIXED CLASSES
DETAILS: -
COMMENTS:

EMPLOYER: UNIVERSITY OF WASHINGTON
ATTN: PETER DENIS
1100 NE CAMPUS PARKWAY
BOX 354555
SEATTLE, WA 98105-6207
Ph1: 206-616-3564 Ph2: 206-841-2872

REP BY: MARK YAMASHITA
OFFICE OF THE ATTORNEY GENERAL
UNIVERSITY OF WASHINGTON
BOX 359475
SEATTLE, WA 98195-9475
Ph1: 206-543-4150 Ph2: 206-616-7935

PARTY 2: WA FED OF STATE EMPLOYEES
ATTN: GLADYS BURBANK
1212 JEFFERSON ST SE STE 300
OLYMPIA, WA 98501-2332
Ph1: 800-562-6002 Ph2: 360-352-7603

REP BY: EDWARD YOUNGLOVE
YOUNGLOVE COKER
1800 COOPER PT RD SW, BLDG 16
PO BOX 7846
OLYMPIA, WA 98507-7846
Ph1: 360-357-7791