

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

TEAMSTERS LOCAL 117,

Complainant,

vs.

PORT OF SEATTLE,

Respondent.

CASE 128486-U-16

DECISION 12645 - PORT

PRELIMINARY RULING AND
ORDER OF PARTIAL DISMISSAL

On October 13, 2016, Teamsters Local 117 (union) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming the Port of Seattle (employer) as respondent. The complaint was reviewed under WAC 391-45-110,¹ and a deficiency notice issued on November 1, 2016, indicated that the complaint was lacking necessary information and detail regarding the refusal to provide information allegations of the complaint. The union was given a period of 21 days in which to file and serve an amended complaint, or face dismissal of the defective refusal to provide information allegations. Nothing further has been received from the union.

The Unfair Labor Practice Manager dismisses the failure/refusal to provide information allegations of the complaint for failure to state a cause of action. The Unfair Labor Practice Manager finds that the complaint states causes for further case processing for unilateral change, premature declaration of impasse, and unilateral implementation allegations. The employer must file and serve its answer to the unilateral change, premature declaration of impasse, and unilateral implementation allegations within 21 days following the date of this Decision.

Allegations

The allegations of the union's complaint against the employer 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 RCW 41.56.140(4) [and if so, derivative interference in violation of RCW 41.56.140(1)] by:

1. Since June 3, 2016, unilaterally changing employee compensation by informing bargaining unit employees they are allowed to accept gratuities, without providing the union with an opportunity for bargaining.
2. Since September 9, 2016, failing or refusing to provide the union with information it requested concerning baggage handling, which is relevant to preparations for collective bargaining negotiations.
3. Since September 20, 2016, prematurely declaring that the parties were at impasse over the baggage handling policy and announcing it would implement the employer's last offer on the policy effective September 26, 2016.
4. Since September 23, 2016, failing or refusing to provide the union with information it requested related to the curb ambassador positions and fees charged to rental car companies to fund those positions, which is relevant to preparations for collective bargaining negotiations.
5. Since September 26, 2016, unilaterally implementing a new baggage handling policy which alters bargaining unit employees working conditions, without bargaining to agreement or a lawful impasse.

The allegations of the complaint concerning unilateral change, premature declaration of impasse, and unilateral implementation contain enough detail to state a cause of action under WAC 391-45-110(2) for further unfair labor practice proceedings before the Commission. The refusal to provide information allegations does not qualify for further processing because the complaint lacks necessary detail. Specifically, the complaint does not specify what information the union requested that the employer has failed or refused to provide.

Requirements for Contents of Complaints

The rules for contents of a complaint are contained in WAC 391-45-050. As explained in the deficiency notice, WAC 391-45-050(2) requires the complainant to submit a “[c]lear and concise statement of the facts constituting the alleged unfair labor practices, including times, dates, places and participants in occurrences.”

ANALYSIS

In this case, the complaint makes generic reference to failure to provide information but and does not describe what information the union believes has not been provided by the employer. For example, paragraph 6 alleges “On September 9, 2016, the Union submitted an information request to the Port regarding Baggage Handling. The Union has received some, but not all, of the requested information.” This allegation is vague and does not specify what information the union requested or what responsive information the union believes has not been provided by the employer. Similarly, in paragraph 8 of the complaint the union alleges “On September 23, 2016, the Union sent an additional information request to the Port regarding issues related to the Curb Ambassador positions and fees charged to Rental Car Companies to fund those positions. To date, the Union has not received all of the information it requested.”

Specifying the nature of the information that the union requested from the employer, is necessary to put the employer on notice. Identifying the aspects of the information request that the union believes are outstanding is also necessary to allow the employer to look into the allegations and file an answer.

CONCLUSION

The union was notified that the failure/refusal to provide information allegations lacked necessary detail and information and had the opportunity to file an amended complaint to correct these defects. No additional information has been filed with the Commission. Therefore, the allegations regarding failure/refusal to provide information are dismissed because they do not contain the clear and concise facts required by WAC 391-45-050.

ORDER

1. Assuming all of the facts alleged to be true and provable, the interference allegations of the complaint state a cause of action, summarized as follows:

Employer refusal to bargain in violation of RCW 41.56.140(4) [and if so, derivative interference in violation of RCW 41.56.140(1)] by:

1. Since June 3, 2016, unilaterally changing employee compensation by informing bargaining unit employees they are allowed to accept gratuities, without providing the union with an opportunity for bargaining.
2. Since September 20, 2016, prematurely declaring that the parties were at impasse over the baggage handling policy and announcing it would implement the employer's last offer on the policy effective September 26, 2016.
3. Since September 26, 2016, unilaterally implementing a new baggage handling policy which alters bargaining unit employees working conditions, without bargaining to agreement or a lawful impasse.

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

Port of Seattle 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 in paragraphs 6 and 8 of the complaint concerning employer failure/refusal to provide information in violation of RCW 41.56.140(4) and (1), are DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 21st day of December, 2016.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



JESSICA J. BRADLEY, Unfair Labor Practice Manager

Paragraph 2 of this order will be the final order of the agency on any defective allegations, 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
MARK E. BRENNAN, COMMISSIONER
MIKE SELLARS, EXECUTIVE DIRECTOR

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DECISION 12645 - PORT has been mailed by the Public Employment Relations Commission to the parties and their representatives listed below:

BY: DEBBIE BATES

CASE NUMBER: 128486-U-16

EMPLOYER: PORT OF SEATTLE
ATTN: DAVID FREIBOTH
2711 ALASKAN WAY
PO BOX 1209
SEATTLE, WA 98111
freiboth.d@portseattle.org
(206) 787-4656

REP BY: SOFIA D. MABEE
SUMMIT LAW GROUP PLLC
315 5TH AVE S STE 1000
SEATTLE, WA 98104
sofiam@summitlaw.com
(206) 676-7112

PARTY 2:
ATTN: TEAMSTERS LOCAL 117
JOHN SCEARCY
14675 INTERURBAN AVE S STE 307
TUKWILA, WA 98168-4614
john.scearcy@teamsters117.org
(206) 441-4860

REP BY: TRACEY THOMPSON
TEAMSTERS LOCAL 117
14675 INTERURBAN AVE S STE 307
TUKWILA, WA 98168
tracey.thompson@teamsters117.org
(206) 441-4860