

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

JASON PARKER,

Complainant,

vs.

STATE – CORRECTIONS,

Respondent.

CASE 128893-U-17

DECISION 12749 - PSRA

ORDER OF DISMISSAL

On April 12, 2017, Jason Parker (complainant) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming the Washington State Department of Corrections (employer) as respondent. On May 1, 2017, Parker filed an amended complaint. The amended complaint was reviewed under WAC 391-45-110,¹ and a deficiency notice issued on May 24, 2017, indicated it was not possible to conclude that a cause of action existed at that time. The complainant was given a period of 21 days in which to file and serve a second amended complaint or face dismissal of the case.

No additional materials were filed by the complainant. The Unfair Labor Practice Manager dismisses the amended complaint for failure to state a cause of action.

ANALYSIS

The allegations of the amended complaint concern the following employer actions:

1. Since July 29, 2016, failing to comply with due process requirements of *Cleveland Board of Education v. Loudermill* when it was deciding whether to terminate Jason Parker’s employment.

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. Deprivation of Parker's Washington State Constitution rights, Sections 3, 9, and 22.
3. Violations of RCW 10.58.020.
4. Violations of WAC 357-01-070.
5. Violations of the collective bargaining agreement.

The Commission only has the authority to enforce Washington State's collective bargaining laws. The complainant's first two allegations concern federal and state constitutional issues that are not within the Commission's jurisdiction. The amended complaint alleges that the employer did not provide due process to Parker as required by *Cleveland Board of Education v. Loudermill*, 470 U.S. 532 (1985) (*Loudermill*) before depriving him of the property rights to his job. The Commission does not assert jurisdiction through the unfair labor practice provisions to enforce due process rights emanating from federal or state constitutions. *City of Tacoma*, Decision 3346-A (PECB, 1990). Allegations concerning violations of *Loudermill* rights or the Fourteenth Amendment and other constitutional issues must be filed in the court system.

Regarding the complainant's third and fourth allegations, the Commission does not have jurisdiction over the provisions of RCW 10.58.020 or WAC 357-01-070.

With regard to the fifth allegation, 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). Allegations that an employer violated a collective bargaining agreement 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. Thus, the portions of the amended complaint alleging violations of the collective bargaining agreement by the employer do not state causes of action with the Public Employment Relations Commission. *Lake Washington School District*, Decision 6312 (EDUC, 1998).

ORDER

The amended 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 July, 2017.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

A handwritten signature in blue ink, appearing to read "J. Bradley", is written over a faint, illegible typed 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.



PUBLIC EMPLOYMENT RELATIONS COMMISSION

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RECORD OF SERVICE - ISSUED 07/17/2017

DECISION 12749 - PSRA has been mailed by the Public Employment Relations Commission to the parties and their representatives listed below:

A handwritten signature in blue ink, appearing to read "Vanessa Smith".

BY: VANESSA SMITH

CASE NUMBER: 128893-U-17

EMPLOYER: STATE - CORRECTIONS

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