

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

ISLAND COUNTY,

Complainant,

vs.

ISLAND COUNTY DEPUTY SHERIFFS
GUILD (CORRECTIONS),

Respondent.

CASE 132228-U-19

DECISION 13152 - PECB

ORDER OF DISMISSAL

On October 29, 2019, Island County (employer) filed a complaint charging unfair labor practices with the Public Employment Relations Commission (PERC) under chapter 391-45 WAC, naming the Island County Deputy Sheriffs Guild – Corrections (union) as respondent. The complaint was reviewed under WAC 391-45-110,¹ and a deficiency notice was issued on December 2, 2019, indicating that it was not possible to conclude that a cause of action existed at that time. The employer 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 employer. The Unfair Labor Practice Manager dismisses the complaint for timeliness.

ISSUE

The complaint alleged:

Union refusal to bargain in violation of RCW 41.56.150(4) [and if so derivative interference in violation of RCW 41.56.150(1)] on an unspecified date, by refusing to provide relevant information requested by the employer concerning preparation for an arbitration.

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.

The complaint is untimely and thus does not constitute violations within the Commission's jurisdiction.

BACKGROUND

Island County employs corrections officers represented by the Island County Deputy Sheriffs Guild. The parties' collective bargaining agreement expired on December 31, 2016.

In furtherance of a pending arbitration, on an unspecified date, the employer allegedly requested information from the union. The union allegedly replied that it would supply the information within a month. The union allegedly failed to provide the requested information.

ANALYSIS

Timeliness

Applicable Legal Standard

There is a six-month statute of limitations for unfair labor practice complaints. "[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." RCW 41.56.160(1). The six-month statute of limitations period begins to run when the complainant knows or should know of the violation. *City of Bellevue*, Decision 9343-A (PECB, 2007), citing *City of Bremerton*, Decision 7739-A (PECB, 2003). The start of the six-month period, also called the triggering event, occurs when a potential complainant has "actual or constructive notice of" the complained-of action. *Emergency Dispatch Center*, Decision 3255-B (PECB, 1990).

To determine timeliness, the Commission looks at the dates of events in the complaint in relation to the filing date. Filing by e-mail attachment is subject to limitations including, "If an electronic filing is received by the agency after office hours, the documents will be deemed filed on the next business day the office is open." WAC 391-08-120(4)(e) and (5)(iv).

Application of Standard

It is not clear if the complaint is timely filed. The metadata created by the successful transmission of the e-mail or electronic filing constitutes the time of service. WAC 391-08-120(4)(e). The metadata shows the complaint was received by the Public Employment Relations Commission on Tuesday, October 29, 2019. Timeliness is based on the date the complaint was filed. Because the complaint was filed on October 29, 2019, any alleged facts must have occurred on or after April 29, 2019, to be timely filed. The statement of facts does not include the dates in which the events occurred for a refusal to provide information violation. The rules for contents of complaint are contained in WAC 391-45-050. WAC 391-45-050(2) requires the complainant to submit “[c]lear and concise statements of the facts constituting the alleged unfair labor practices, including times, dates, places and participants in occurrences.” The statement of facts attached to the complaint should describe all relevant documents. The complaint references attachments. It should be noted that the preliminary review process is based on reviewing the text of the complaint. The attachments to a complaint will not be evaluated or considered at this preliminary stage of case processing. The statement of facts attached to the complaint must describe all documents that are relevant to understanding the allegations. *City of Seattle (Amalgamated Transit Union, Local 587)*, Decision 12697 (PECB, 2017). The employer did not file an amended complaint providing dates of occurrence, thus the complaint must be dismissed.

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 16th day of January, 2020.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



EMILY K. WHITNEY, Unfair Labor Practice Administrator

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.



RECORD OF SERVICE

ISSUED ON 01/16/2020

DECISION 13152 - PECB has been served by mail and electronically by the Public Employment Relations Commission to the parties and their representatives listed below.

A handwritten signature in blue ink, appearing to read "Amy Riggs", is written in a cursive style.

BY: AMY RIGGS

CASE 132228-U-19

EMPLOYER: ISLAND COUNTY

REP BY: ISLAND COUNTY COMMISSIONERS
ISLAND COUNTY
PO BOX 5000
1 NE 6TH ST
COUPEVILLE, WA 98239-5000

ROBERT R. BRAUN JR.
BRAUN CONSULTING GROUP
1415 2ND AVE STE 909
SEATTLE, WA 98101
b.braun@braunconsulting.com

PARTY 2: ISLAND COUNTY DEPUTY SHERIFFS GUILD (CORRECTIONS)

REP BY: DINA GUAY
ISLAND COUNTY DEPUTY SHERIFFS GUILD (CORRECTIONS)
PO BOX 84
COUPEVILLE, WA 98239
dinaguay@yahoo.com

JAMES M. CLINE
CLINE & ASSOCIATES
520 PIKE ST STE 1125
SEATTLE, WA 98101
jcline@clinelawfirm.com

BENJAMIN S. TEETS
CLINE & ASSOCIATES
520 PIKE ST STE 1125
SEATTLE, WA 98101
bteets@clinelawfirm.com