

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

KING COUNTY,	Employer.	
VIJAYANT GAUR,	Complainant,	CASE 132497-U-20
vs.		DECISION 13169 - PECB
KING COUNTY SECURITY GUILD,	Respondent.	ORDER OF DISMISSAL

On January 29, 2020, Vijayant Gaur filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming King County Security Guild (union) as respondent. The complaint was reviewed under WAC 391-45-110,¹ and a deficiency notice issued on February 6, 2020, indicated that it was not possible to conclude that a cause of action existed at that time. Gaur was given a period of 21 days in which to file and serve an amended complaint, or face dismissal of the case.

On February 13, 2020, Gaur filed additional information in support of his complaint. The allegations raised by Gaur are dismissed for failure to state causes of action.

BACKGROUND

Vijayant Gaur works for King County as a security officer/instructor and is represented by the King County Security Guild for purposes of collective bargaining. The Guild represents a

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.

bargaining unit of security officers, dispatchers, and security sergeants who work in the Department of Executive Services, Facilities Management Division.

Gaur's original complaint and additional supporting documents alleges that the union, on unspecified dates committed the following unfair labor practices:

- The Guild's president has remained in office without Gaur's knowledge of voting rights or election processes;
- Union funds were utilize to pay for nonunion related items and no transparency existed regarding the union's treasury;
- Improper back-pay of membership dues;
- Side bargaining and business with union members and voter fraud;
- Improper union election procedures;
- Failure to provide union members with information;
- Favoritism and improper representation of union members;
- Improper timekeeping regarding union business;
- Threatening union members seeking clarifications regarding union matters.

ANALYSIS

Gaur's complaints do not describe allegations that fit within the jurisdiction of the agency. The agency's jurisdiction is limited to the resolution of collective bargaining disputes between employers, employees, and unions. The agency does not have authority to resolve all disputes that might arise in public employment. *Tacoma School District (Tacoma Education Association)*, Decision 5086-A (EDUC, 1995). Just because the complaints do not state a cause of action for an unfair labor practice it does not necessarily mean the allegations involve lawful activity. It means that the issues are not matters within the purview of the Commission. *Tacoma School District (Tacoma Education Association)*, Decision 5086-A.

Gaur's allegations focus on irregularities concerning internal union election processes and the administration of union finances. Union elections, union financial practices, and information about the union's elections and finances all concern internal union processes. This agency has no authority to intervene in internal union affairs. The union's administration of its internal elections or records is a matter of the union's own creation. Matters related to a union's constitution or bylaws are contracts between the union and its members. Disputes concerning alleged violations of such contracts are beyond the jurisdiction of the Commission and must be resolved through internal union procedures or the courts. *Community College District 8 - Bellevue (Bellevue Community College Association of Higher Education)*, Decision 10032 (CCOL, 2008); (citing *Seattle School District*, Decision 9359-A (EDUC, 2007)).

Duty of Fair Representation

Gaur alleges that the union showed favoritism to some bargaining unit members while improperly representing other bargaining unit members. When a union is certified as the exclusive bargaining representative, the union assumes a duty of fair representation. A union breaches its duty of fair representation when its conduct is arbitrary, discriminatory, or in bad faith. *Vaca v. Sipes*, 386 U.S. 171, 177 (1967); *City of Seattle (Seattle Police Officers' Guild)*, Decision 11291-A (PECB, 2012). In rare circumstances, the Commission asserts jurisdiction in duty of fair representation cases. *City of Seattle (Seattle Police Officers' Guild)*, Decision 11291-A. The Commission asserts jurisdiction in duty of fair representation cases when an employee alleges its union aligned itself in interest against employees it represents based on invidious discrimination. *Id.* In such cases, the employee bears the burden of establishing that the union took some action aligning itself against bargaining unit employees on an improper or invidious basis, such as union membership, race, sex, national origin, etc. *Id.*

Although Gaur has alleged that the union shown favoritism to certain bargaining unit member and has improperly represented others, his complaint lack specific facts, including the dates, times, locations, and participants alleging the union was aligning itself against bargaining unit employees on an improper or invidious basis, such as union membership, race, sex, national or origin. WAC 391-45-050(2) requires the complainant to include "[c]lear and concise statements of the facts constituting the alleged unfair labor practices, including times, dates, places and participants in

occurrences.” Complaints must contain specific descriptions and dates of occurrences so that the respondents can look into the allegations and respond. The Commission cannot address vague allegations or generalizations that lack required details including times, dates, places, and participants in occurrences.

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, 2020.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


DARIO DE LA ROSA, 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 03/17/2020

DECISION 13169 - PECB has been served by mail and electronically by the Public Employment Relations Commission to the parties and their representatives listed below.

BY: DEBBIE BATES

CASE 132497-U-20

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