

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

WA INTERPRETERS,

Complainant,

vs.

WASHINGTON STATE LANGUAGE
ACCESS PROVIDERS,

Respondent.

CASE 133420-U-21

DECISION 13355-B - PECB

DECISION OF COMMISSION

Juan Medina Bloise, President, for WA INTERPRETERS.

M. Kate Garcia, Assistant Attorney General, and *Cheryl L. Wolfe*, Senior Counsel, Attorney General Robert W. Ferguson, for the Washington State Language Access Providers.

On March 30, 2021, the WA INTERPRETERS (union) filed an unfair labor practice complaint alleging the employer interfered with employee rights by changing wages, hours, and other terms and conditions of employment during the pendency of a representation petition in violation of WAC 391-25-140(2). Unfair Labor Practice Administrator Emily Whitney (Administrator) reviewed the complaint and issued a partial deficiency notice. That same day, the union withdrew the defective portions of its complaint. The Administrator issued a preliminary ruling finding a cause of action.

On April 21, 2021, the union filed an amended complaint. The amended complaint added new facts to the original complaint. The ULP Administrator issued an amended preliminary ruling. The amended preliminary ruling framed the issue for hearing as:

Employer interference in violation of RCW 41.56.140(1) and WAC 391-25-140(2) within six months of the date the amended complaint was filed, by failing to maintain the status quo related to implementing the interpretingWorks online scheduling system.

The unfair labor practice complaint proceeded to hearing before Examiner Michael Snyder. The Examiner concluded that the employer did not interfere with employee rights in violation of RCW 41.56.140(1). *Washington State Language Access Providers*, Decision 13355-A (PECB, 2021). The Examiner concluded that the employer decided to change the way LAPs were scheduled and communicated that decision to employees before the union filed the representation petition. *Id.* at 2. The new scheduling system was part of the dynamic status quo. *Id.* at 2–3.

The union filed a timely appeal. The union filed an appeal brief and the employer filed a response brief.

ISSUE

The issue before the Commission is whether substantial evidence supports the Examiner's conclusion that the employer did not interfere with employee rights in violation of RCW 41.56.140(1) when the employer implemented a new scheduling system while the representation petition was pending before the agency. We affirm the Examiner.

ANALYSIS

Applicable Legal Standard

Standard of Review

The Commission reviews conclusions and applications of law, as well as interpretation of statutes, de novo. *City of Wenatchee*, Decision 8802-A (PECB, 2006). The Commission reviews findings of fact to determine if they are supported by substantial evidence and, if so, whether those findings in turn support the Examiner's conclusions of law. *C-TRAN (Amalgamated Transit Union, Local 757)*, Decision 7087-B (PECB, 2002).

Substantial evidence exists if the record contains evidence of sufficient quantity to persuade a fair-minded, rational person of the truth of the declared premise. *City of Vancouver v. Public Employment Relations Commission*, 107 Wn. App. 694, 703 (2001); *C-TRAN (Amalgamated Transit Union, Local 757)*, Decision 7087-B. The Commission attaches considerable weight to the factual findings and inferences, including credibility determinations, made by its examiners. *Cowlitz County*, Decision 7007-A (PECB, 2000).

CONCLUSION

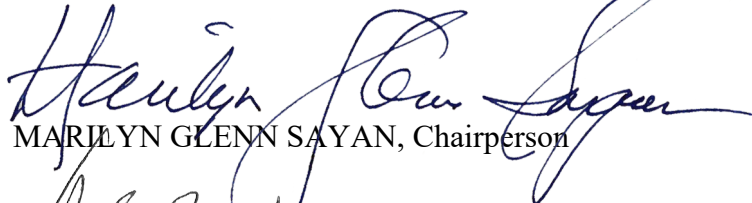
Substantial evidence supports the Examiner's findings of fact, which in turn support the conclusions of law. The decision to change the scheduling system was made before the union filed the representation petition. The employees expected the change. Implementation of the new scheduling system was part of the dynamic status quo. Thus, the employer did not violate RCW 41.56.140(1) when the employer implemented the new scheduling system while the representation petition was pending before the agency.

ORDER

The Findings of Fact, Conclusions of Law, and Order issued by Examiner Michael Snyder are AFFRIMED and adopted as the Findings of Fact, Conclusions of Law, and Order of the Commission.

ISSUED at Olympia, Washington, this 24th day of February, 2022.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARILYN GLENN SAYAN, Chairperson



MARK BUSTO, Commissioner



KENNETH J. PEDERSEN, Commissioner

This order will be the final order of the agency unless a notice of appeal is filed with the Commission under RCW 34.05.542.



RECORD OF SERVICE

ISSUED ON 02/24/2022

DECISION 13355-B - PECB has been served by mail and electronically by the Public Employment Relations Commission to the parties and their representatives listed below.

BY: AMY RIGGS

CASE 133420-U-21

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