

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

PETRA BARBA,

Complainant,

vs.

WASHINGTON STATE EMPLOYMENT
SECURITY DEPARTMENT,

Respondent.

CASE 135990-U-22

DECISION 13605 - PSRA

ORDER OF DISMISSAL

Petra Barba, the complainant.

Amee J. Tilger, Assistant Attorney General, Attorney General Robert W. Ferguson
for the Washington State Employment Security Department.

On October 21, 2022, Petra Barba (complainant) filed an unfair labor practice complaint against the Washington State Employment Security Department (employer). The complaint was reviewed under WAC 391-45-110.¹ A deficiency notice issued on November 16, 2022, notified Barba that a cause of action could not be found at that time. Barba 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 Barba. The Unfair Labor Practice Administrator dismisses the complaint for failure to state a cause of action.

¹ At this stage of the proceedings, all of the facts alleged in the complaint or amended 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.

ISSUE

The complaint alleges the following:

Unidentified allegations against the employer.

The complaint did not include a statement of facts. Barba was provided an opportunity to file an amended complaint alleging violations within the Commission's jurisdiction. Because there was no amended complaint filed with a statement of facts alleging violations within the Commission's jurisdiction, the complaint must be dismissed.

BACKGROUND

On October 21, 2022, Barba filed an unfair labor practice complaint form with the alleged violation against the employer and union boxes checked and approximately 47 pages of attached documents. The complaint did not include a statement of facts explaining the events that occurred or alleged violations. Barba was provided an opportunity to file an amended complaint and did not file an amended complaint.

ANALYSIS

Complaints Must Contain a Statement of Facts

Applicable Legal Standard

Complaints must contain a statement of facts with numbered paragraphs. The statement of facts should include the times, dates, places, and participants in occurrences. In this case the complainant only submitted the ULP complaint form. For additional details *see* WAC 391-45-050.

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 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).

Application of Standard


In this case Barba only submitted the ULP complaint form and approximately 47 pages of documents and emails. There was no statement of facts that included allegations within the Commission’s jurisdiction. Barba was provided an opportunity to file an amended complaint with a statement of facts correcting the deficiency and no amended complaint was filed.

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 21st day of December, 2022.

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 12/21/2022

DECISION 13605 - PSRA 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 135990-U-22

EMPLOYER: WASHINGTON STATE EMPLOYMENT SECURITY DEPARTMENT

REP BY: MARIE BURROWS
WASHINGTON STATE EMPLOYMENT SECURITY DEPARTMENT
PO BOX 9046
OLYMPIA, WA 98507
marie.burrows@esd.wa.gov

ANN GREEN
OFFICE OF FINANCIAL MANAGEMENT
INSURANCE BUILDING
PO BOX 43113
OLYMPIA, WA 98504-3113
labor.relations@ofm.wa.gov

AMEE J. TILGER
OFFICE OF THE ATTORNEY GENERAL
7141 CLEANWATER DRIVE SW
PO BOX 40145
OLYMPIA, WA 98504-0145
amee.tilger@atg.wa.gov

PARTY 2: PETRA BARBA

REP BY: PETRA BARBA
34626 SE SWENSON DR A 109
SNOQUALMIE, WA 98065
p8trab@gmail.com