

STATE OF WASHINGTON  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

INTERNATIONAL ASSOCIATION OF  
FIRE FIGHTERS LOCAL 1828,

Complainant,

vs.

SOUTH SNOHOMISH COUNTY FIRE &  
RESCUE,

Respondent.

CASE 138686-U-24 and 138687-U-24

DECISION 13823 - PECB

ORDER OF DISMISSAL

*Patrick Moore*, President, for the International Association of Fire Fighters Local 1828.

*Thad Hovis*, Fire Chief, for the South Snohomish County Fire & Rescue.

On March 5, 2024, the International Association of Fire Fighters Local 1828 (union) filed unfair labor practice complaints against South Snohomish County Fire & Rescue (employer). The complaints were docketed as case 138686-U-24 (nonsupervisory) and 138687-U-24 (supervisory). The complaints were reviewed under WAC 391-45-110.<sup>1</sup> A deficiency notice issued on March 20, 2024, notified union that causes of action could not be found at that time for either complaint. The union was given a period of 21 days in which to file and serve amended complaints or face dismissal of the cases. No further information has been filed by the union.

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<sup>1</sup> At this stage of the proceedings, all of the facts alleged in the complaints or amended complaints are assumed to be true and provable. The question at hand is whether, as a matter of law, the complaints state a claim for relief available through unfair labor practice proceedings before the Public Employment Relations Commission.

ISSUE

The complaints allege the following:

Employer interference in violation of RCW 41.56.140(1) within six months of the date the complaints were filed, by threats of reprisal or force or promise of benefit made through statements by Commissioner Fearnough to unidentified bargaining unit employees.

The complaints are dismissed because they failed to include all necessary elements to establish a cause of action for employer interference. The complaints also failed to comply with WAC 391-45-050.

BACKGROUND

The union represents bargaining units of nonsupervisory and supervisory firefighters in the employer's workforce. The supervisory bargaining unit is currently in negotiations for a successor collective bargaining agreement. It is not clear from the complaint the status of the nonsupervisory bargaining unit collective bargaining agreement.

According to the complaints, on March 4, 2024, the union submitted a letter to the employer disapproving of Commissioners Rowland and Fearnough holding the dual role of Commissioner and Volunteer Firefighter. The union was allegedly made aware of this during a phone conversation between Political Director Zack Cash and Fearnough. It is not clear from the complaint if Cash is a bargaining unit employee. During that call, Fearnough allegedly intimated that the union's letter that could impact future contact negotiations.

The complaints did not comply with WAC 391-45-050 by including facts in individually numbered paragraphs that included times, dates, and places of occurrences, and the names of the participants, and the statute of any grievance that may have been filed concerning these matters. The complaints also failed to identify a remedy sought by the union.

ANALYSIS*Employer Interference*Applicable Legal Standard

It is an unfair labor practice for an employer to interfere with, restrain, or coerce employees in the exercise of their statutory rights. RCW 41.56.140(1). To prove interference, the complainant must prove, by a preponderance of the evidence the employer's conduct interfered with protected employee rights. *Grays Harbor College*, Decision 9946-A (PSRA, 2009); *Pasco Housing Authority*, Decision 5927-A (PECB, 1997), *remedy aff'd, Pasco Housing Authority v. Public Employment Relations Commission*, 98 Wn. App. 809 (2000). An employer interferes with employee rights when an employee could reasonably perceive the employer's actions as a threat of reprisal or force, or a promise of benefit, associated with the union activity of that employee or of other employees. *Kennewick School District*, Decision 5632-A (PECB, 1996).

An employer may interfere with employee rights by making statements, through written communication, or by actions. *Snohomish County*, Decision 9834-B (PECB, 2008); *Pasco Housing Authority*, Decision 5927-A.

The complainant is not required to demonstrate that the employer intended or was motivated to interfere with employees' protected collective bargaining rights. *City of Tacoma*, Decision 6793-A (PECB, 2000). Nor is it necessary to show that the employee involved was actually coerced by the employer or that the employer had union animus for an interference charge to prevail. *City of Tacoma*, Decision 6793-A.

A complaint must comply with the agency's rule filing rule, WAC 391-45-050. The complaint must contain a statement of facts with numbered paragraphs. The statement of facts should include:

- Specific allegations that constitute a violation of state law and required elements. For a list of types of violations that may be raised before PERC and the required elements please visit: <https://perc.wa.gov/ulp-employee-filing/>;

- Times, dates, places of occurrences, and the names of the participants in a chronological order that explains the alleged unfair labor practice;
- Whether a related grievance has been filed and its status. If you do not know if a grievance has been filed, please indicate so;
- A description of the remedies requested.

These requirements are necessary to put the respondent on notice of the alleged unfair labor practice and to allow the respondent to reference specific allegations within the complaint when filing an answer.

#### Application of Standard

The union's complaints as filed failed to state a cause of action for interference because it is not clear from the facts of the complaints if Faernehough's statements were actually made to bargaining unit employees. The facts as pled did not make it clear if Cash is a bargaining unit employee or if other bargaining unit employees heard or received Faernehough's statements. Absent such facts a cause of action could not be found. Finally, the complaints failed to comply with the provisions WAC 391-45-050.

#### ORDER

The complaints charging unfair labor practices in the above-captioned matter are DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 19th day of April, 2024.

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

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ISSUED ON 04/19/2024

DECISION 13823 - 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

CASES 138686-U-24 and 138687-U-24

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