

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

PORT OF SEATTLE,  Employer.	
HERBERT GONZALES,  Complainant,  vs.  TEAMSTERS LOCAL 117,  Respondent.	CASE 141478-U-24  DECISION 14064-A - PORT  ORDER GRANTING MOTION FOR SUMMARY JUDGMENT

*Herbert Gonzales*, the complainant.

*Eamon S. McCleery*, Senior Staff Attorney, for Teamsters Local 117.

On November 14, 2024, Herbert Gonzales filed an unfair labor practice complaint against Teamsters Local 117 (union). Gonzales filed an amended complaint on December 24, 2024. On June 4, 2025, the union filed a motion for summary judgment. I grant the motion and dismiss Gonzales's amended complaint because it was not served on the union as required by WAC 391-08-120.

BACKGROUND

On November 14, 2024, Gonzales filed a complaint against the union. The original complaint did not include a statement of facts, and Gonzales filed a first amended complaint containing a statement of facts on November 19, 2024. On December 11, 2024, the agency issued a deficiency notice instructing Gonzales that he must plead more specific facts demonstrating a breach of the duty of fair representation or face dismissal. On December 24, 2024, Gonzales filed a second amended complaint. Gonzales emailed the second amended complaint to the agency's filing

address, filing@perc.wa.gov. The second amended complaint alleged facts sufficient to obtain a cause of action statement. *See Port of Seattle (Teamsters Local 117)*, Decision 14064 (PORT, 2025). The case was assigned to the undersigned for hearing.

On May 28, 2025, the union filed an answer.

On June 4, 2025, the union filed a motion for summary judgment with a supporting declaration from union legal assistant Haley Perry. Perry attested that Gonzales's December 24, 2024, second amended complaint had not been served upon the union by Gonzales. After receiving Decision 14064 and searching the union's files and correspondence for a copy of the second amended complaint in March 2025, Perry reached out and received a copy directly from Commission staff.

Gonzales was given a deadline to oppose the union's motion for summary judgment. Via a short email on June 19, 2025, Gonzales stated that, upon review of his own records, the union's assertion that the second amended complaint had not been served was "correct." He provided no basis to oppose the motion.

#### Applicable Legal Standard(s)

##### *Summary Judgment*

Under the Commission's rules, when a hearing date has not been established, summary judgment motions may be filed any time after the answer has been filed. WAC 391-08-155(1). WAC 10-08-135 states that a "motion for summary judgment may be granted and an order issued if the written record shows that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." A "material fact" is one upon which the outcome of the litigation depends. *State – General Administration*, Decision 8087-B (PSRA, 2004). A motion for summary judgment calls upon the examiner to make final determinations without the benefit of a full evidentiary hearing and record. The granting of such a motion cannot be taken lightly. *Port of Seattle*, Decision 7000 (PECB, 2000). The party moving for summary judgment has the burden of demonstrating the absence of any genuine issue as to a material fact.

A summary judgment is only appropriate where the party responding to the motion cannot or does not deny any material fact alleged by the party making the motion. Entry of a summary judgment accelerates the decision-making process by dispensing with a hearing where none is needed. *Pierce County*, Decision 7018-A (PECB, 2001) (citing *City of Vancouver*, Decision 7013 (PECB, 2000)). Pleadings and briefs can be sufficient to determine if there is a genuine issue of material fact. *Pierce County*, Decision 7018-A (citing *City of Seattle*, Decision 4687-A (PECB, 1996)).

#### *Service Requirements*

WAC 391-45-030 requires the party filing a complaint to serve a copy of the complaint on each party named as a respondent. The rules for service and how to show proof of service are contained in WAC 391-08-120. WAC 391-08-120(3) specifies that documents filed with the agency shall be served upon all parties on the same day. Service shall be upon counsel and the representative of record or upon their designated agents.

WAC 391-08-120(6) requires contemporaneous preparation of a certificate of service or proof by obtaining acknowledgment of service by the respondent. Where the sufficiency of service is contested, WAC 391-08-120(7) provides that acknowledgment of service obtained under subsection (6)(a) or a certificate of service under subsection (6)(b) shall constitute proof of service.

The Commission's rules are in place to encourage effective communication between all parties and to nurture the orderly resolution of disputes. Timely and effective service is enforced to ensure due process is afforded to all parties. *City of Mabton*, Decision 9992-A (PECB, 2008). Service of the complaint is a jurisdictional requirement. *Tacoma School District (International Union of Operating Engineers, Local 286)*, Decision 5337-B (PECB, 1996). Where a party raises a claim of defective service, the burden is on the party that filed the document to prove that it served the other party or parties. *King County*, Decision 7221-A (PECB, 2001). Failure to provide proof of service will result in the dismissal of a complaint. *Washington State University*, Decision 12396 (PSRA, 2015) (citing *State – Fish and Wildlife*, Decision 11748 (PSRA, 2013); *City of Kirkland*, Decision 8822-A (PECB, 2005)).

Application of Standard(s)

There are no material facts in dispute. The parties agree that the second amended complaint was not served on the union as required by WAC 391-08-120. The union asserts that it did not receive the amended complaint, and Gonzales admits that his records confirm it was not served. There are no unique circumstances in the record like those discussed by the Commission in *Pasco School District*, Decision 13969-A (PECB, 2025). The complaint must be dismissed.

CONCLUSION

The union's motion is GRANTED. Gonzales's amended complaint is dismissed because it was not served as required by WAC 391-08-120.

FINDINGS OF FACT

1. On November 14, 2024, Gonzales filed a complaint against Teamsters Local 117 (union).
2. The original complaint did not include a statement of facts, and Gonzales filed a first amended complaint containing a statement of facts on November 19, 2024.
3. On December 11, 2024, the agency issued a deficiency notice instructing Gonzales that he must plead more specific facts demonstrating a breach of the duty of fair representation or face dismissal.
4. On December 24, 2024, Gonzales filed a second amended complaint. Gonzales emailed the second amended complaint to the agency's filing address, [filing@perc.wa.gov](mailto:filing@perc.wa.gov).
5. The second amended complaint alleged facts sufficient to obtain a cause of action statement. The case was assigned to the undersigned for hearing.
6. On May 28, 2025, the union filed an answer.
7. As detailed in the declaration of union legal assistant Haley Perry, Gonzales's December 24, 2024, second amended complaint was not served upon the union by Gonzales. After

receiving *Port of Seattle (Teamsters Local 117)*, Decision 14064, and searching the union's files and correspondence for a copy of the second amended complaint in March 2025, Perry reached out and received a copy directly from Commission staff.

8. Via a short email on June 19, 2025, Gonzales confirmed that, upon review of his own records, the union's assertion that the second amended complaint had not been served was correct. He provided no other basis to oppose summary judgment.

#### CONCLUSIONS OF LAW

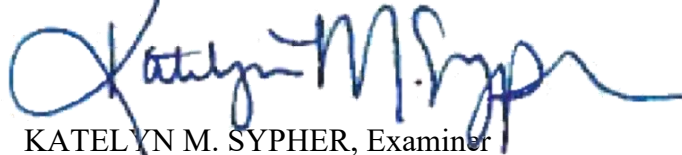
1. The Public Employment Relations Commission has jurisdiction in this matter under chapter 53.18 RCW and chapter 391-45 WAC.
2. No genuine issue of material fact remains as to whether Gonzales served the second amended complaint on the union.
3. Based upon findings of fact 1-8, Gonzales did not comply with the requirement of WAC 391-08-120(3) to serve the amended complaint on the union.

#### ORDER

The complaint charging unfair labor practices filed in the above-captioned matter is dismissed.

ISSUED at Olympia, Washington, this 22nd day of July, 2025.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

A handwritten signature in blue ink, appearing to read "Katelyn M. Syphe", is written over the printed name.

KATELYN M. SYPHER, Examiner

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.