

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

CITY OF MOUNTLAKE TERRACE,

Complainant,

vs.

MOUNTLAKE TERRACE POLICE
GUILD,

Respondent.

CASE 24640-U-12-6296

DECISION 11605-A - PECB

DECISION OF COMMISSION

Cline & Associates, by *Christopher J. Casillas*, Attorney at Law, for the union.

Summit Law Group, P.L.L.C., by *Michael C. Bolasina*, Attorney at Law, for the employer.

The City of Mountlake Terrace (employer) filed an unfair labor practice complaint against the Mountlake Terrace Police Guild (union) on March 5, 2012. The employer alleged that the union made a unilateral change and breached its good faith bargaining obligations seeking to consolidate grievance arbitrations. The Unfair Labor Practice Manager reviewed the complaint under WAC 391-45-110 and found a cause of action to exist. Examiner Emily Whitney conducted a hearing and issued a decision.¹ The Examiner concluded that the employer failed to demonstrate that a past practice existed over the consolidation of grievances and the union did not make a unilateral change. The Examiner concluded that the union did not breach its good faith bargaining obligations when the union sought an arbitrator's ruling on the scope of the legal issues before the arbitrator. The employer appealed the Examiner's decision.

¹ *City of Mountlake Terrace*, Decision 11605 (PECB, 2012).

The Commission reviews conclusions and applications of law, as well as interpretations of statutes, de novo. We review 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*, Decision 7088-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. *Renton Technical College*, Decision 7441-A (CCOL, 2002). Unchallenged findings of fact are accepted as true on appeal. *C-Tran*, Decision 7088-B. The Commission attaches considerable weight to the factual findings and inferences, including credibility determinations, made by its examiners. *Cowlitz County*, Decision 7210-A (PECB, 2001).

Grievance procedures are mandatory subjects of bargaining. RCW 41.56.030(4). The components of a grievance procedure are mandatory subjects of bargaining. *King County Fire District 36*, Decision 11120-A (PECB, 2013), *City of Bellevue*, Decision 11435-A (PECB, 2013). Unlike *City of Bellevue* and *King County Fire District 36*, this case did not present a question of whether an aspect of the grievance procedure is a mandatory subject of bargaining. There the parties reached impasse in collective bargaining over an aspect of the grievance procedure and sought, through the unfair labor practice mechanism, a decision as to whether the cost of representation at grievance arbitration was a mandatory subject of bargaining. Here, the question before the Commission is not whether the consolidation of grievances is a mandatory subject of bargaining. Rather, this case presented issues of whether the union unilaterally changed how grievances are consolidated and breached its good faith bargaining obligation by the manner in which it sought clarification from the grievance arbitrator of the scope of the issues before her.

We have reviewed the record and fully considered the arguments in this manner. The Examiner correctly stated the legal standard. Substantial evidence supports the Examiner's findings of fact. The findings of fact support the Examiner's conclusions of law. We affirm the Examiner.

NOW, THEREFORE, it is

ORDERED


The Findings of Fact, Conclusions of Law, and Order issued by Examiner Emily K. Whitney are AFFIRMED and adopted as the Findings of Fact, Conclusions of Law, and Order of the Commission.

ISSUED at Olympia, Washington, this 30th day of October, 2013.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARILYN GLENN SAYAN, Chairperson



THOMAS W. McLANE, Commissioner

Commissioner Bradburn did not participate in the consideration of or decision in this case.



PUBLIC EMPLOYMENT RELATIONS COMMISSION

112 HENRY STREET NE SUITE 300
PO BOX 40919
OLYMPIA, WASHINGTON 98504-0919

MARILYN GLENN SAYAN, CHAIRPERSON
PAMELA G. BRADBURN, COMMISSIONER
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PUBLIC EMPLOYMENT RELATIONS COMMISSION



BY: /S/ MAJEL C. BOUDIA

CASE NUMBER: 24640-U-12-06296 FILED: 03/05/2012 FILED BY: EMPLOYER
DISPUTE: UN GOOD FAITH
BAR UNIT: LAW ENFORCE
DETAILS: -
COMMENTS:

EMPLOYER: CITY OF MOUNTLAKE TERRACE
ATTN: JOHN CAULFIELD
6100 219TH ST SW STE 200
MOUNTLAKE TERRACE, WA 98043
Ph1: 425-744-6205

REP BY: MICHAEL C BOLASINA
SUMMIT LAW GROUP
315 5TH AVE SOUTH STE 1000
SEATTLE, WA 98104-2682
Ph1: 206-676-7006 Ph2: 206-676-7000

PARTY 2: MOUNTLAKE TERRACE POLICE GUILD
ATTN: DAN MACKENZIE
MLT POG
PO BOX 195
MOUNTLAKE TERRACE, WA 98043
Ph1: 425-670-8260

REP BY: CHRISTOPHER CASILLAS
CLINE AND ASSOCIATES
2003 WESTERN AVE STE 550
SEATTLE, WA 98121
Ph1: 206-838-8770 Ph2: 607-379-1828