

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

CITY OF SEATTLE,)	
)	
Employer.)	
-----)	
SHELLEY E. BAROUH,)	CASE 14259-U-98-3537
)	
Complainant,)	DECISION 6593 - PECB
)	
vs.)	
)	
TEAMSTERS UNION, LOCAL 117,)	ORDER OF DISMISSAL
)	
Respondent.)	
)	
_____)	

On November 25, 1998, Shelley E. Barouh filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming Teamsters Union, Local 117 as respondent.¹ The complaint was reviewed for purposes of making a preliminary ruling under WAC 391-45-110,² and a deficiency notice was issued on December 28, 1998.

The complainant was given a period of 14 days in which to file an amended complaint which stated a cause of action, or face dismissal

¹ The complaint identifies Barouh as an employee of the City of Seattle, but does not seek any remedy from the Commission against that employer. Each case processed by the Commission must arise out of an employment relationship that is subject to the Commission's jurisdiction, and the employer's name thus appears in docket records and captions for this case.

² At this stage of proceedings, all of the facts alleged in a complaint are assumed to be true and provable. The question at hand is whether the complaint states a claim for relief available through unfair labor practice proceedings before the Commission.

of the case. No response was received within that period, and dismissal of the complaint is now warranted.

DISCUSSION

The complainant alleges making numerous attempts, between January of 1997 and November of 1998, to obtain the union's assistance with a grievance concerning a pay rate, following a re-classification, transfer and/or reorganization that occurred in January of 1997. The grievance would have been filed under a collective bargaining agreement between the employer and union.

RCW 41.56.160 imposes a six-month period of limitations on filing of unfair labor practice complaint. Therefore, the complaint in this matter could only be considered as timely for acts or events that occurred on or after May 25, 1998.

The Public Employment Relations Commission does not assert jurisdiction over "breach of duty of fair representation" claims arising exclusively out of the processing of contractual grievances. Mukilteo School District (Public School Employees of Washington), Decision 1381 (PECB, 1982). That policy is closely-related to the principle that the Commission does not assert jurisdiction to remedy violations of collective bargaining agreements through the unfair labor practice provisions of the statute. City of Walla Walla, Decision 104 (PECB, 1976). An employee who has been denied fair representation on a contractual grievance would have to pursue the grievance in a court that can assert jurisdiction to remedy the underlying contract violation.

The Commission does assert jurisdiction over "breach of duty of fair representation" complaints where a union is accused of aligning itself in interest against a bargaining unit employee

because of some unlawful form of discrimination. There are, however, no such allegations in this complaint.

NOW, THEREFORE, it is

ORDERED

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, on the 3rd day of February, 1999.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director

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.