

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

TAMMY LYN PARSONS,)	
)	
Complainant,)	CASE 14566-U-99-3639
)	
vs.)	DECISION 6848 - PECB
)	
BETHEL SCHOOL DISTRICT,)	ORDER OF DISMISSAL
)	
Respondent.)	
)	
)	

On May 7, 1999, Tammy Lyn Parsons filed a complaint charging unfair labor practices with the Public Employment Relations Commission, under Chapter 391-45 WAC, marking boxes on the complaint form to claim that both her former employer and her former exclusive bargaining representative violated her rights under state law. Consistent with established practice, a separate case was docketed for each party being charged with misconduct: Case 14565-U-99-3638 covers the allegations against Public School Employees of Washington (union); Case 14566-U-99-3639 covers the allegations against the Bethel School District (employer).

The cases were combined for purposes of review under WAC 391-45-110,¹ and for purposes of a combined deficiency notice issued on August 17, 1999. Parsons was given 14 days in which to file and serve amended complaints which stated a cause of action, or face

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

dismissal of the cases. Parsons filed a timely response to the deficiency notice. The above-captioned case is again before the Executive Director for processing under WAC 391-45-110.²

The Executive Director concludes that the previously-noted deficiencies have not been corrected, and that this case must be dismissed for failure to state a cause of action.³

BACKGROUND

Parsons was employed as a school bus driver within a bargaining unit represented by the union.

Parsons says she "resigned" because of employer harassment after she filed grievances, but extensive materials accompanying the complaint indicate the resignation occurred the day she was notified of a recommendation that she be discharged based on her handling of students and her unprofessional interactions with parents.⁴ Parsons states the union induced the employer to commit a violation, and committed unspecified unfair labor practices.

² The union filed a response to the complaint, without waiting for direction to file an answer under WAC 391-45-190. Such volunteered materials cannot be considered in the processing of a case under WAC 391-45-110.

³ An order dismissing the companion case is being issued simultaneously.

⁴ Parsons filed more than 120 pages of documents, using the "Complaint Charging Unfair Labor Practices" form as the cover sheet on the package. The assumption that alleged facts are true and provable does not compel the Executive Director to ignore conflicts within such documents.

DISCUSSIONAllegations of Employer Misconduct Insufficiently Detailed

The deficiency notice pointed out that the original complaint did not set forth facts sufficient to constitute a cause of action under Chapter 41.56 RCW. Parsons had marked boxes on the complaint form to allege the employer interfered with her rights, and discriminated against her for filing charges. The accompanying materials indicate Parsons had filed several grievances against the employer (with some success), but did not identify any previous unfair labor practice charges. The materials referred to race discrimination issues, but did not specify Parsons' race or allege specific instances of such discrimination.

The response to the deficiency notice added statements that her step-son, a Native American, had been "kicked off Bethel buses several times", and that parents complained about her behavior because the discipline she gave their children for poor behavior on her bus would lead to them being "kicked off per Bethel's bus conduct rules". She also challenges the adequacy of the employer's investigation, noting other children on the route had not been interviewed. Finally, she attached two handwritten statements which appear to be from students on her former route,⁵ who want her to return. These additional allegations do not correct the problems of the original complaint.

The extensive materials filed with the complaint show Parsons was largely successful in filing and pursuing grievances (an activity protected by Chapter 41.56 RCW) during 1997 and 1998, but the original and amended complaints, taken together, still lack any

⁵ One of the statements is unsigned.

indication of the employer harboring anti-union animus that would connect her union activities with the proposed discharge.

The extensive materials on file, including notes of parent and student interviews, police reports, and correspondence, suggest the employer proposed Parsons' discharge because of allegations that Parsons herself treated students of racial minorities more harshly than Caucasian students. The fact that Parsons' step-son may have been kicked off Bethel buses would neither excuse her own discriminatory behavior, nor constitute evidence of any discrimination prohibited by Chapter 41.56 RCW. The Executive Director cannot ignore obvious conflicts between the alleged facts and the materials filed in support of a complaint. See, Spokane County, Decision 6708 (PECB, 1999). The complaint as a whole contradicts Parsons' claim she "resigned" because of employer harassment due to her union activities.

Apart from the fact that Parsons failed to supply any detailed facts to support her suggested claims of racial harassment or discrimination, the Public Employment Relations Commission only deals with such issues insofar as they affect collective bargaining relationships otherwise regulated by Chapter 41.56 RCW. The primary jurisdiction to deal with allegations of discrimination on the basis of race or national origin lies with the Washington State Human Rights Commission, under Chapter 49.60 RCW. See, City of Seattle, Decision 205 (PECB, 1977).

Parsons questions the adequacy of the employer's investigation, and the statements from students are understood to be part of the defenses she has asserted or will assert against the recommendation that she be discharged. Job security protections provided by a "just cause" standard or similar standard are contractual in

nature, and claimed violations must be pursued through the grievance and arbitration machinery of the collective bargaining agreement or through the courts. The Public Employment Relations 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).

NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices filed in the above-entitled matter is hereby DISMISSED for failure to state a claim for relief available through proceedings before the Commission.

Issued at Olympia, Washington, this 12th day of October, 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.