

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

SIDNEY CLARK,)	
)	
Complainant,)	CASE 16536-U-02-4284
)	
vs.)	DECISION 7953 - PSRA
)	
WASHINGTON STATE DEPARTMENT)	ORDER OF DISMISSAL
OF CORRECTIONS,)	
)	
Respondent.)	
)	
)	

The complaint charging unfair labor practices in the above-referenced matter was filed by Sidney Clark (Clark) with the Washington State Department of Personnel on September 25, 2001, and was docketed as ULP-514. Clark is employed by the Washington State Department of Corrections (employer) at Larch Corrections Center in Yacolt, Washington. On June 13, 2002, the Public Employment Relations Commission acquired jurisdiction over the complaint.

The complaint alleged that the employer violated the parties' collective bargaining agreement and committed unspecified unfair labor practices under Chapter 41.56 RCW, by its unfair treatment, discrimination based on race, and refusal to make reasonable accommodation for Clark after he suffered an on-the-job knee injury.

The complaint was reviewed under WAC 391-45-110.¹ A deficiency notice was issued on September 16, 2002, indicating that it was not possible to conclude that a cause of action existed at that time. The deficiency notice stated that unlike the Department of Personnel or the National Labor Relations Board, the Public Employment Relations Commission does not investigate facts which are alleged in a complaint to determine if any collective bargaining statute has been violated. The deficiency notice indicated that the complainant is responsible for the presentation of its case. See WAC 391-45-270.

The deficiency notice stated that 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). Allegations concerning racial discrimination must be addressed under the provisions of Chapter 49.60 RCW, Discrimination - Human Rights Commission. The Public Employment Relations Commission does not have jurisdiction over and does not administer the provisions of Chapter 49.60 RCW. The Public Employment Relations Commission does not have jurisdiction concerning reasonable accommodation for an on-the-job injury.

The deficiency notice advised Clark that an amended complaint could be filed and served within 21 days following such notice, and that

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, as a matter of law, the complaint states a claim for relief available through unfair labor practice proceedings before the Public Employment Relations Commission.

any materials filed as an amended complaint would be reviewed under WAC 391-45-110 to determine if they stated a cause of action. The deficiency notice further advised Clark that in the absence of a timely amendment stating a cause of action, the complaint would be dismissed. Nothing further has been received from Clark.

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, this 8th day of January, 2003.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARK S. DOWNING, Director of Administration

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.