

STATE OF WASHINGTON  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

JOSIE MULLALEY,	)	
	)	
Complainant,	)	CASE 18017-U-03-4632
	)	
vs.	)	DECISION 8493 - PRIV
	)	
ZIPS,	)	
	)	
Respondent.	)	ORDER OF DISMISSAL
	)	

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On November 24, 2003, Josie Mullaley (Mullaley) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming Zips (employer) as respondent. The allegations of the complaint concern employer interference with employee rights and discrimination in violation of RCW 41.56.140(1), by shift manager Mike Laughlin's yelling behavior towards Mullaley, a former employee.

The complaint was reviewed under WAC 391-45-110,<sup>1</sup> and a deficiency notice issued on February 18, 2004, indicated that it was not possible to conclude that a cause of action existed at that time. Mullaley was given a period of 21 days in which to file and serve an amended complaint, or face dismissal of the case.

No further information has been filed by Mullaley. The Unfair Labor Practice Manager dismisses the complaint for failure to state a cause of action.

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<sup>1</sup> 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.

DISCUSSION

The complaint is defective. The complaint was filed on the Commission's Form U-1, Complaint Charging Unfair Labor Practices. Form U-1 indicates that the employer's principal business is "fast food," and that the parties have never had a collective bargaining agreement. It appears that the employer is a private business. The Public Employment Relations Commission only has jurisdiction over certain public sector employees, and has no jurisdiction over private sector employees. Certain private sector employees are granted collective bargaining rights by a federal law, the National Labor Relations Act. That Act is administered by the National Labor Relations Board (NLRB), which has an office in Seattle with a phone number of (206) 220-6300. Additional information about the NLRB is available on their website, which can be reached using the Commission's website: [www.perc.wa.gov](http://www.perc.wa.gov) and then clicking on "Other Links," and "National Labor Relations Board."

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 5<sup>th</sup> day of April, 2004.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARK S. DOWNING, Unfair Labor Practice Manager

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.