

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

NATHANIEL GENTRY,)	
)	
Complainant,)	CASE 17781-U-03-4601
)	
vs.)	DECISION 8453 - PECB
)	
VANCOUVER SCHOOL DISTRICT,)	
)	
Respondent.)	ORDER OF DISMISSAL
)	
)	

On August 20, 2003, Nathaniel Gentry (Gentry) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming the Vancouver School District (employer) as respondent. The complaint was reviewed under WAC 391-45-110,¹ and a deficiency notice issued on February 2, 2004, indicated that it was not possible to conclude that a cause of action existed at that time. Gentry 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 Gentry. The Unfair Labor Practice Manager dismisses the complaint for failure to state a cause of action.

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.

DISCUSSION

The allegations of the complaint concern employer interference with employee rights and discrimination in violation of RCW 41.56.140(1), by its disparate treatment of Nathaniel Gentry in a performance evaluation, in reprisal for union activities protected by Chapter 41.56 RCW. The complaint alleges that Gentry's June, 2003 evaluation was "fraudulent, slanderous, degrading, and not in coherence with contract procedure." Gentry claims that the evaluation was "discriminatory since no action was taken on others for violations of more serious neglect."

The complaint is defective for several reasons. One, 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). The Commission acts to interpret collective bargaining statutes and does not act in the role of arbitrator to interpret collective bargaining agreements. See *Clallam County*, Decision 607-A (PECB, 1979); *City of Seattle*, Decision 3470-A (PECB, 1990); *Bremerton School District*, Decision 5722-A (PECB, 1997).

Two, in relation to the allegations of discrimination under RCW 41.56.140(1), the complaint fails to allege facts indicating that the employer's actions were taken in reprisal for union activities protected under Chapter 41.56 RCW.

Three, unlike the National Labor Relations Board, the Commission does not investigate facts which are alleged in a complaint to determine if any collective bargaining statute has been violated. The complainant is responsible for presentation of evidence

supporting its complaint at a hearing before an examiner. See WAC 391-45-270.

Four, a sexual harassment complaint filed by Gentry was attached to the complaint. The Public Employment Relations Commission does not have jurisdiction over allegations of discrimination based on sex.

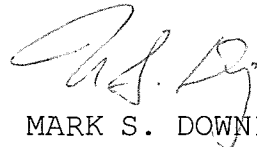
NOW, THEREFORE, it is

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 March, 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.