

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

TOM WILSON,)	
)	
Complainant,)	CASE 19470-U-05-4941
)	
vs.)	DECISION 9054 - PSRA
)	
WASHINGTON STATE - TRANSPORTATION,)	
)	
Respondent.)	ORDER OF DISMISSAL
)	
)	

On May 12, 2005, Tom Wilson (Wilson) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming the Washington State Department of Transportation as respondent. The allegations of the complaint concern unspecified statutory violations by the respondent related to Wilson's release from his duties as a flagger while employed by Peterson Brothers Inc.

The complaint was reviewed under WAC 391-45-110,¹ and a deficiency notice issued on June 28, 2005, indicated that it was not possible to conclude that a cause of action existed at that time. Wilson

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.

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 Wilson. The Unfair Labor Practice Manager dismisses the complaint for failure to state a cause of action.

DISCUSSION

The complaint has several defects. One, the complaint appears to have been filed against a private employer. 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 "construction," and the department or division involved is "guard rail repair." That information seems to indicate that Wilson's employer was Peterson Brothers Inc., a private business, rather than the Washington State Department of Transportation. The Commission generally has jurisdiction only over public sector employees. WAC 391-45-019 provides that the unfair labor practice case rules of chapter 391-45 WAC are inapplicable to private sector collective bargaining under chapter 49.08 RCW. 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.

Two, in relation to the allegations of an "other unfair labor practice," the complaint fails to explain and specify what "other" rule or statute has been violated by the respondent's actions.

Three, the complaint refers to allegations of race discrimination. The Commission does not have jurisdiction over allegations of race discrimination.

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 15th day of August, 2005.

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.