

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

TEAMSTERS LOCAL 117,)	
)	
Complainant,)	CASE 21305-U-07-5440
)	
vs.)	DECISION 9913 - PSRA
)	
WASHINGTON STATE - CORRECTIONS,)	PRELIMINARY RULING
)	AND ORDER OF PARTIAL
Respondent.)	DISMISSAL
_____)	

On October 12, 2007, Teamsters Local 117 (union) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming the Washington State Department of Corrections (employer) as respondent. The complaint was reviewed under WAC 391-45-110,¹ and a deficiency notice issued on October 18, 2007, indicated that it was not possible to conclude that a cause of action existed at that time for some of the allegations of the complaint. The union was given a period of 21 days in which to file and serve an amended complaint, or face dismissal of the defective allegations. Nothing further has been received from the union.

The Unfair Labor Practice Manager dismisses the defective allegations of the complaint for failure to state a cause of action, and finds a cause of action for certain interference allegations of the

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.

complaint concerning John Marckini. The employer must file and serve its answer to the allegations within 21 days following the date of this decision.

DISCUSSION

The allegations of the complaint concern employer interference with employee rights in violation of RCW 41.80.110(1)(a) and discrimination in violation of RCW 41.80.110(1)(c), by denial of Marckini's and Officer Bailey's rights to union representation (*Weingarten* rights) in connection with meetings with employer representatives, destruction of a CD concerning Marckini related to his union representation, and interference and discrimination against Marckini, Bailey, Dan Carver, and other unnamed employees.

Defects

The deficiency notice indicated that a cause of action did not exist for the allegations of the complaint concerning employer interference with employee rights by denial of Bailey's *Weingarten* right, and additional employer interference and discrimination against Marckini, Bailey, Carver, and other unnamed employees. The deficiency notice pointed out the complaint's defects.

Chapter 391-45 WAC governs the filing of unfair labor practice complaints and appeals. Complaints must conform to WAC 391-45-050.

WAC 391-45-050 CONTENTS OF COMPLAINT

Each complaint charging unfair labor practices shall contain, in separate numbered paragraphs:

(2) Clear and concise statements of the facts constituting the alleged unfair labor practices, including times, dates, places and participants in occurrences.

The complaint fails to comply with WAC 391-45-050. Paragraphs five, eight, nine, and ten of the statement of facts attached to the complaint do not include times, dates, places, and all necessary participants. They contain only general statements and thus fail to give specific details regarding the employer's alleged violations. Paragraph eight states only the name of (John) Marckini, and paragraph nine provides only a last name for Bailey. Paragraphs five and ten contain no specific facts.

The allegations concerning employer actions relative to Marckini as set forth in paragraphs six and seven of the statement of facts state a cause of action. However, regarding other claims of employer interference with employee rights in violation of RCW 41.80.110(1)(a), the complaint does not provide facts sufficient to conclude that the employer made additional threats of reprisal or force or promises of benefit to Marckini, Bailey, Carver, and other unnamed employees in connection with their union activities.

Regarding claims of employer discrimination in violation of RCW 41.80.110(1)(c), the complaint does not provide facts sufficient to conclude that the employer took discriminatory actions against Marckini, Bailey, Carver, and other unnamed employees in reprisal for union activities protected by Chapter 41.80 RCW.

Cause of Action

The deficiency notice stated that the allegations of the complaint concerning employer interference with employee rights by denial of Marckini's *Weingarten* right, and destruction of a CD concerning Marckini related to his union representation, state a cause of action under WAC 391-45-110(2) for further unfair labor practice proceedings before the Commission.

NOW, THEREFORE, it is

ORDERED

1. Assuming all of the facts alleged to be true and provable, the following interference allegations of the complaint concerning Marckini state a cause of action, summarized as follows:

Employer interference with employee rights in violation of RCW 41.80.110(1)(a) by (1) denial of John Marckini's right to union representation (*Weingarten* right) in connection with a meeting with employer representatives on April 13, 2007, and (2) threats of reprisal or force or promises of benefit regarding Marckini by the destruction of a CD concerning Marckini related to his union representation.

The above-noted allegations of the complaint will be the subject of further proceedings under Chapter 391-45 WAC.

2. The Washington State Department of Corrections shall:

File and serve its answer to the allegations listed in paragraph 1 of this Order, within 21 days following the date of this Order.

An answer shall:

- a. Specifically admit, deny or explain each fact alleged in the complaint, except if a respondent states it is without knowledge of the fact, that statement will operate as a denial; and


- b. Assert any affirmative defenses that are claimed to exist in the matter.

The answer shall be filed with the Commission at its Olympia office. A copy of the answer shall be served on the attorney or principal representative of the person or organization that filed the complaint. Service shall be completed no later than the day of filing. Except for good cause shown, a failure to file an answer within the time specified, or the failure to file an answer to specifically deny or explain a fact alleged in the complaint, will be deemed to be an admission that the fact is true as alleged in the complaint, and as a waiver of a hearing as to the facts so admitted. WAC 391-45-210.

3. The allegations of the complaint concerning employer interference with employee rights in violation of RCW 41.80.110(1)(a) and discrimination in violation of RCW 41.80.110(1)(c), contained in paragraphs five, eight, nine, and ten of the statement of facts attached to the complaint, concerning Marckini, Bailey, Carver, and other unnamed employees, are DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 26th day of November, 2007.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



DAVID I. GEDROSE, Unfair Labor Practice Manager

Paragraph 3 of this order will be the final order of the agency on any defective allegations, unless a notice of appeal is filed with the Commission within 20 days under WAC 391-45-350.