

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

VIRGIE ARMSTRONG DAVIS,)	
)	
Complainant,)	CASE 21539-U-08-5488
)	
vs.)	DECISION 10025 - PECB
)	
PORT OF SEATTLE,)	
)	
Respondent.)	ORDER OF DISMISSAL
_____)	

On February 21, 2008, Virgie Armstrong Davis (Davis) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming the Port of Seattle (employer) as respondent. The complaint was reviewed under WAC 391-45-110,¹ and a deficiency notice issued on February 25, 2008, indicated that it was not possible to conclude that a cause of action existed at that time. Davis was given a period of 21 days in which to file and serve an amended complaint, or face dismissal of the case.

Davis has not filed any further information. The Unfair Labor Practice Manager dismisses the complaint for failure to state a cause of action.

DISCUSSION

The allegations of the complaint concern employer interference with employee rights and discrimination in violation of RCW 41.56.140(1), by its termination of Virgie Armstrong Davis (Davis) in reprisal for union activities protected by Chapter 41.56 RCW.

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.

The deficiency notice pointed out that the complaint was untimely and thus defective.

The Commission's jurisdiction in this case is governed by Chapter 41.56 RCW, which includes the following provision regarding the filing of complaints:

RCW 41.56.160--COMMISSION TO PREVENT UNFAIR LABOR PRACTICES AND ISSUE REMEDIAL ORDERS AND CEASE AND DESIST ORDERS. (1) The commission is empowered and directed to prevent any unfair labor practice and to issue appropriate remedial orders: PROVIDED, That a complaint shall not be processed for any unfair labor practice occurring more than six months before the filing of the complaint with the commission.

The complaint alleges that the employer committed an unfair labor practice by terminating Davis on July 20, 2007. Under the provisions of RCW 41.56.160(1), Davis had until January 20, 2008, to file a complaint with the Commission. The complaint was filed on February 21, 2008. The complaint is untimely.

NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices in Case 21539-U-08-5488 is DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 27th day of March, 2008.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



DAVID I. GEDROSE, 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.