

King County, Decision 10195 (PECB, 2008)

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

SONYA WEAVER,)	
)	
Complainant,)	CASE 21926-U-08-5586
)	DECISION 10195 - PECB
vs.)	
)	CASE 21927-U-08-5587
KING COUNTY,)	DECISION 10196 - PECB
)	
Respondent.)	CASE 21941-U-08-5589
)	DECISION 10197 - PECB
_____)	
SONYA WEAVER,)	
)	
Complainant,)	
)	
vs.)	
)	
KING COUNTY CORRECTIONS GUILD,)	
)	ORDER OF DISMISSAL
Respondent.)	
_____)	

On August 19, 2008, Sonya K. Weaver (Weaver) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming King County (employer) and the King County Corrections Guild (union) as respondents. The Commission docketed the complaint as two separate cases. The complaint against the employer was docketed as Case 21926-U-08-5586 (21926), and the complaint against the union as Case 21927-U-08-5587 (21927). On August 25, 2008, Weaver filed a second complaint against the employer. The complaint was docketed as Case 21941-U-08-5589 (21941). The complaints were reviewed

under WAC 391-45-110.¹ Deficiency notices were issued for Cases 21926 and 21927 on August 26, 2008, and for Case 21941 on August 28, 2008. The deficiency notices indicated that it was not possible to conclude that causes of action existed at that time. Weaver was given a period of 21 days in which to file and serve amended complaints or face dismissal of the complaints.

Weaver has not filed any further information. The Unfair Labor Practice Manager dismisses the complaints for failures to state causes of action.

DISCUSSION

Consolidation of Cases

WAC 10-08-085 provides that "multiple adjudicative proceedings involving common issues or parties" may be consolidated. The cases involve identical parties and issues. The cases are consolidated for the purposes of this ruling.

Complaint Against King County (employer)-Case 21926

The allegations of the complaint concern [1] employer interference with employee rights in violation of RCW 41.56.140(1) and refusal to bargain in violation of RCW 41.5.140(4), by its unilateral change in seniority bidding for employee shift placement and furlough assignment, without providing an opportunity for bargaining; and [2] employer interference with employee rights and

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.

discrimination in violation of RCW 41.56.140(1), by making the court detail available only to the King County Corrections Facility (KCCF) first shift.

Complaint Against King County Corrections Guild (union)-Case 21927

The allegations of the complaint concern [1] union interference with employee rights in violation of RCW 41.56.150(1) and refusal to bargain in violation of RCW 41.56.150(4), by (a) its unilateral change in seniority bidding for employee shift placement and furlough assignment (bidding), without providing an opportunity for bargaining, and (b) its violation of the union's constitution and bylaws concerning bidding; and [2] union interference with employee rights in violation of RCW 41.56.150(1) and inducing the employer to commit an unfair labor practice in violation of RCW 41.56.150(2), by making the court detail available only to the KCCF first shift.

The deficiency notice pointed out the defects to the complaints.

Complaint Against the Employer

One, Weaver filed the complaint, but her discrimination claim apparently includes as complainants "the established waiting list, all officers, shifts and facilities that are eligible to the bidding process" (In the statement of facts, Weaver lists the plaintiff as "Sonya K. Weaver et al.") While individual employees may file unfair labor practice complaints, Commission rules do not permit class actions. The complaint is limited to allegations concerning Weaver.

Two, the complaint alleges contract violations. The Commission does not assert jurisdiction to remedy violations of collective

bargaining agreements through unfair labor practice proceedings. Such matters must be addressed through contractual grievance and arbitration procedures.

Three, the complaint alleges refusal to bargain. The duty to bargain exists between an employer and the exclusive bargaining representative of its employees. Individual employees, such as Weaver, do not have standing to process refusal to bargain allegations.

Four, it is an unfair labor practice for an employer to interfere with employee rights by threats of reprisal or force or promises of benefit related to union activities. However, Weaver has not provided facts alleging employer interference related to her union activities.

Five, it is also an unfair labor practice for an employer to discriminate against employees by depriving them of ascertainable rights, benefits, or status in reprisal for union activities protected by statute. Weaver alleges employer discrimination by its making the court detail available only to the KCCF first shift, but does not provide facts alleging that this was in reprisal for her union activities.

Complaint Against the Union

Defects one through three regarding Weaver's complaint against the employer apply equally to her complaint against the union. Weaver's claim of interference against the union fails for the same reason as her interference claim against the employer: Weaver has not provided facts alleging union interference related to her union activities. Finally, the allegations concerning the union inducing the employer to commit a violation is the equivalent of a claim for

union discrimination. Weaver has not provided facts alleging that the union, in reprisal for her union activities, induced the employer to commit unfair labor practices against her.

Weaver also alleges that the union violated its constitution and bylaws by the agreement with the employer concerning shift and furlough bidding. The constitution and bylaws of a union are contracts among the members of a union for how the organization is to operate. The Commission does not have jurisdiction in matters involving internal union governance. Disputes concerning alleged violations of the constitution and bylaws of a union must be resolved through the courts or the internal procedures of the union.

Second Complaint Against the Employer-Case 21941

The allegations of the complaint concern employer discrimination for filing charges in violation of RCW 41.56.140(3) [and if so, derivative "interference" in violation of RCW 41.56.140(1)], by removing Weaver from Shift 5 for filing an unfair labor practice complaint.

The deficiency notice pointed out the defect to the complaint. The complaint does not appear to provide due process to the employer.

As previously noted, Weaver filed an unfair labor practice complaint with the Commission on August 19, 2008, with allegations against both King County (employer) and the King County Corrections Guild (union); the Commission docketed the complaints as two separate cases on August 20, 2008. Notices of case filings dated the same day were sent to both the employer and union. Commission records do not contain certificates of service served by Weaver on either the employer or the union.

In the present case, Weaver provided information showing that the employer notified her of the shift changes on August 20, 2008 ("Roll Call Re-Announcement"). The Commission's notice of case filing would not have reached the employer prior to release of the roll call re-announcement. Based upon information supplied by Weaver and the absence of proof of service in Case 21926, it is not apparent that the employer was aware of the unfair labor practice filing in Case 21926 prior to the release of the August 20 roll call re-announcement.

Although Weaver did previously file an unfair labor practice complaint against the employer, due process considerations require the present complaint to include facts indicating that the employer had knowledge that Weaver had filed the August 19 complaint when it issued the August 20 roll call re-announcement.

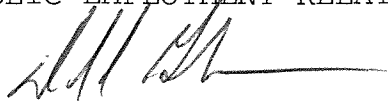
NOW, THEREFORE, it is

ORDERED

The complaints charging unfair labor practices in Cases 21926, 21927, and 21941 are DISMISSED for failures to state causes of action.

ISSUED at Olympia, Washington, this 1st day of October, 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.