

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

CITY OF YAKIMA,)	
)	
Employer.)	
-----)	
JIM CASTILLO,)	
)	
Complainant,)	CASE 21975-U-08-5595
)	
vs.)	DECISION 10208 - PECB
)	
YAKIMA POLICE PATROLMANS)	
ASSOCIATION,)	
)	
Respondent.)	ORDER OF DISMISSAL
_____)	

On September 12, 2008, Jim Castillo (Castillo) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming the Yakima Police Patrolmans' Association (union) as respondent. The complaint was reviewed under WAC 391-45-110,¹ and a deficiency notice issued on September 22, 2008, indicated that it was not possible to conclude that a cause of action existed at that time. Castillo was given a period of 21 days in which to file and serve an amended complaint or face dismissal of the case.

On October 9, 2008, Castillo filed an amended complaint. The amended complaint does not cure the defects to the complaint. The Unfair Labor Practice Manager dismisses the amended 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 union interference with employee rights in violation of RCW 41.56.150(1), inducing the employer to commit an unfair labor practice in violation of RCW 41.56.150(2), and discrimination for filing an unfair labor practice charge in violation of RCW 41.56.150(3), by union actions regarding Jim Castillo (Castillo).

The deficiency notice pointed out the defects to the complaint. One, Chapter 391-45 WAC governs the filing and processing of unfair labor practice complaints. 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.

Castillo's complaint appears to revolve around a grievance filed by the union related to his current work assignment. It does not appear that Castillo has filed a grievance. While Castillo has a dispute with the union and does provide details of the dispute, the lack of information on the underlying grievance makes the overall allegations of the complaint unclear.

Two, it is an unfair labor practice for a union to interfere with employee rights through threats of reprisal or force or promises of benefit related to the employee's union activities. Castillo appears to be dissatisfied with his union representation. The Commission's jurisdiction does not encompass internal union disputes between union members and union officials or other members. Such disputes must be resolved through the union's own by-laws or the courts. The complaint does not provide sufficient

facts indicating union interference based upon Castillo's union activities.

Three, it is an unfair labor practice for a union to induce an employer to commit a violation. The Commission will assert jurisdiction where a union requests the employer to take unlawful action against a bargaining unit member related to union activities. The complaint does not allege facts indicating that the union has requested the employer to take unlawful action against Castillo in violation of Chapter 41.56 RCW.

Four, under RCW 41.56.150(3), it is an unfair labor practice for a union to discriminate against an employee who has filed an unfair labor practice complaint. The Commission will also consider a cause of action under this statute for allegations of discrimination for giving testimony before the Commission. However, Castillo has not provided facts showing that he has previously filed an unfair labor practice complaint or testified before the Commission.

Amended Complaint

The amended complaint outlines the nature of the grievance filed by the union against the employer. The grievance apparently concerns the union's allegation that the employer has violated the collective bargaining agreement by assigning Castillo to a newly created position without posting the position. Castillo alleges that the union could have filed similar grievances regarding other bargaining unit members, but has not, and is specifically "targeting" Castillo.

The Public Employment Relations Commission does not have jurisdiction to address concerns by public employees regarding general allegations of discrimination, whether by an employer or union. The Commission's jurisdiction extends only to instances where employees allege that the discrimination is related to the employees' union activities and provide facts supporting the

allegations. The deficiency notice set forth this requirement; however, the allegations in the amended complaint remain non-specific. While Castillo clearly believes that the union is treating him differently than other bargaining unit members, he does not provide facts indicating that the union's alleged actions constitute violations that come within the Commission's jurisdiction. The Commission can neither process the case nor offer Castillo a remedy.

NOW, THEREFORE, it is

ORDERED

The amended complaint charging unfair labor practices in Case 21975-U-08-5595 is DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 20th 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.