

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

INTERNATIONAL FEDERATION OF)	
PROFESSIONAL AND TECHNICAL)	
ENGINEERS, LOCAL 17,)	
)	
Complainant,)	CASE 21978-U-08-5596
)	
vs.)	DECISION 10218 - PECB
)	
SPOKANE COUNTY,)	
)	
Respondent.)	ORDER OF DISMISSAL
)	

On September 15, 2008, the International Federation of Professional and Technical Engineers, Local 17 (union) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming Spokane County (employer) 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. The union was given a period of 21 days in which to file and serve an amended complaint or face dismissal of the case.

The union has not filed any further information. The Unfair Labor Practice Manager dismisses the 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 employer discrimination (and if so, derivative "interference") in violation of RCW 41.56.140(1), and refusal to bargain in violation of RCW 41.56.140(4) [and if so, derivative "interference" in violation of RCW 41.56.140(1)], by its unilateral change in Right of Way agents' use of personal vehicles, without providing an opportunity for bargaining.

The deficiency notice pointed out the defects to the complaint. One, it is an unfair labor practice for an employer to decide upon and implement a change in a mandatory subject of bargaining without providing the union an opportunity to bargain the proposed change. However, a cause of action will exist in unilateral change cases only when the allegations indicate that the employer has made an actual change of a mandatory subject of bargaining. The complaint states that the employer intends to change its policy on the use of personal vehicles on October 15, 2008. No cause of action exists under these facts.

Two, it is an unfair labor practice for an employer to discriminate against employees in reprisal for their union activities protected by statute. The complaint does not appear to allege that the employer's actions are in reprisal for protected union activities of the Right of Way agents. The basis for the discrimination claim appears to be the employer's agreement on vehicle use with another bargaining unit. However, employers may negotiate different contract terms with different bargaining units. The statute does not guarantee uniformity of contract terms across bargaining unit lines. The employer's negotiation of a personal vehicle policy

with the bargaining unit representing employees of the Assessor's Office does not provide the basis for a cause of action for discrimination against the utility and engineering bargaining unit represented by Local 17.

NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices in Case 21978-U-08-5596 is DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 27th 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.