

Divisions are composed of "subdivisions" which are supervised by managers. Subdivisions consist of "sections" which are directed by employees holding the title of "supervisor".

Events leading to these unfair labor practice allegations arose in the Customer Service Division. Director Betty Blair supervises approximately 350 employees working in four subdivisions. The Customer Assistance subdivision, under the direction of Manager Claire Lewis, is composed of two sections: Meter Reading, supervised by Diana Moore, and Customer Telephone Assistance Service (CTAS), supervised by Joan Wade. As its name implies, the Customer Telephone Assistance Service provides city light customers with information about billing and available consumer services. Wade, with the help of three assistant supervisors, directs approximately 50 employees in CTAS. Wade has been CTAS supervisor since 1977.

International Federation of Professional and Technical Engineers, Local 17 represents a number of clerical, technical and supervisory employees at Seattle City Light. While the union has a professional staff composed of a business manager and several business representatives, bargaining unit employees are also involved in the direction of the union through election to several officer positions such as president, vice-president and trustee. In addition to union officers, certain bargaining unit employees are designated to serve as shop stewards within specific departments or sections. While testimony is contradictory, it appears that stewards can be selected by vote of the bargaining unit employees or can be appointed by the union's business manager. For purposes of this unfair labor practice complaint, the union affiliation of certain employees must be set forth. Diana Moore is a union member and has served as vice-president and shop steward for the union. All members of the CTAS staff are represented by the union, with the exception of Wade, who is not a union member and is not part of any bargaining unit at City Light.

During her tenure as supervisor, she has had a stormy relationship with the union. Serious trouble began in 1981, when Wade directed CTAS employees to listen in on telephone conversations between shop stewards and union business representative Richard Basarab. The dispute was settled prior to trial in the Superior Court for King County. After the telephone monitoring incident, Wade's distrust of the union, and of Basarab in particular, grew. As tension grew, the relationship between Wade and the union deteriorated. Extensive testimony was offered concerning the existence of "factions" within the CTAS section. Characterized as "anti-Wade/pro-Basarab" or "pro-Wade/anti-Basarab", the factions are integral to this unfair labor practice complaint.

In 1982, Wade became involved in several disputes with the union. At some unspecified time in 1982, the union conducted elections for a number of

officer positions. During the course of the election campaign, Wade spoke with Denise Beaver, a subordinate employee. Wade told Beaver to speak with Gay Frederickson, another CTAS employee, about the election. Specifically, Wade told Beaver that Frederickson would be able to suggest a slate of candidates who would "get rid of" union business agent Richard Basarab. Beaver met with Wade only once, and she testified that Wade's remarks did not influence her decision in the election. The record does not reflect the outcome of the election, nor does it indicate whether Wade approached other employees. Complainant did not file an unfair labor practice complaint concerning Wade's contact with Beaver.

POSITIONS OF THE PARTIES

Complainant argues that respondent has violated RCW 41.56.140(1) and (2) through the actions of Joan Wade, a supervisory employee of Seattle City Light. Complainant maintains that Wade has identified "factions" within the section and actively discriminates against those employees she considers to be "pro-union". In addition, complainant contends that Wade has interfered with internal union affairs by attempting to influence the outcome of union officer elections, and by recognizing an employee as shop steward when she was aware that another employee held that position. Complainant further contends that Wade has instigated dissension within the union by encouraging black employees to file racial discrimination complaints.

Respondent denies that any unfair labor practice was committed, and asserts that complainant has failed to sustain its burden of proof. Respondent argues that many of complainant's allegations concern events that took place over a year before the complaint was filed and must be dismissed under the provisions of RCW 41.56.160. As to the other allegations, respondent contends that complainant has failed to produce any evidence demonstrating that Wade has taken any overt actions against union members that could constitute unfair labor practices.

DISCUSSION

The record compiled over the course of five days of hearing is replete with accusations of misconduct by both parties. The Examiner is convinced that the employment relationship in Seattle City Light, particularly in the CTAS section, is strained, and that there have been questionable management decisions concerning the employer's relationship with the union. A supervisor's actions can bind the employer, and unfair labor practices committed while the supervisor is serving in an official capacity are considered to be the responsibility of the public employer as an entity. See: Seattle-King County Health Department, Decision 1458 (PECB, 1982).

However, poor management practices, in themselves, do not constitute a sufficient basis to support an unfair labor practice charge. See: City of Tacoma, Decision 1342 (PECB, 1982). The crucial inquiry is whether complainant has proven that any unfavorable working atmosphere was caused by respondent's conscious attempts to interfere with rights granted to public employees by Chapter 41.56 RCW.

The scope of complainant's charge against respondent is narrowed by the provisions of RCW 41.56.160:

41.56.160 Commission to prevent unfair labor practices and issue remedial orders. 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. This power shall not be affected or impaired by any means of adjustment, mediation or conciliation in labor disputes that have been or may hereafter be established by law. (emphasis added)

The unfair labor practice complaint was filed on January 25, 1984. Only those events occurring during the six month period immediately preceding the filing of the complaint will be considered to determine whether a violation took place. Events in a more remote time period may provide interesting background information, but cannot be remedied as separate unfair labor practices. See: Morton General Hospital, Decision 2217 (PECB, 1985). This interpretation requires dismissal of allegations concerning Wade's conversations with Denise Beaver about union officer candidates in 1982, and Wade's alleged involvement in April, 1983 union officer elections. Both incidents were completed transactions long before the crucial six-month period of examination. The record demonstrates that complainant was aware of the incidents, and could have filed in a timely fashion.

The unfair labor practice complaint otherwise details several distinct incidents involving Wade's relationship with the union. For the sake of clarity, each incident is presented separately.

Interference with Union Elections and Selection of Shop Stewards

Gay Frederickson, a CTAS employee, had served as shop steward since 1978. The record does not indicate whether Frederickson ever had difficulties working with Wade or with union leadership. In any event, the union decided that she should be removed as shop steward. At an unspecified time, several CTAS employees approached Michael Waske, union business manager, to discuss

possible reclassification on existing salary schedules. During the course of those discussions, Waske suggested that the employees select a new shop steward. A vote was taken and Arlet Deslongchamp was chosen. On July 8, 1982, Basarab sent Wade the following letter explaining the situation:

Please be advised that effective immediately Ms. Gay Fredrickson (sic) is no longer a shop steward for Local 17 representing its members in her location. In the near future I will be appointing a replacement for Ms. Fredrickson (sic).

Copies of the letter were sent to Everett Rosmith, labor relations director for the City of Seattle, and William Gates, labor relations coordinator for Seattle City Light. Frederickson did not receive a copy of the letter. The record does not indicate how long Deslongchamp had served as shop steward when the letter was sent.

On July 14, 1982, CTAS employees sent a petition to Waske, asking him to remove Deslongchamp as shop steward and to permit new elections for the position. The petition was signed by 23 CTAS employees. Michael Burnett, a CTAS employee characterized by complainant as a "pro-Wade" individual, prepared the document. The record does not indicate that Wade took part in the preparation or circulation of the petition.

Apparently, complainant did not respond to the employees' petition. On August 27, 1982, CTAS employees notified Waske that they had run an independent election and had chosen Valerie Wilson as their new shop steward. The record does not reflect any response by complainant to the election run by disaffected CTAS employees.

On August 30, 1982, Carole Coe-Hauskins, director of administrative services for Seattle City Light, wrote to Basarab asking for clarification of the shop steward situation:

By letter to Joan Wade dated July 8, 1982 you indicated that Gay Fredrickson (sic) was no longer to be recognized as a Shop Steward in the CTAS section and that you would be appointing a replacement in the near future. Please advise if that appointment has been made.

While the record is quite unclear, Wilson apparently withdrew from the steward's position. Wilson's withdrawal left Deslongchamp as the "official" shop steward and Frederickson as the "de facto" steward who still believed that she was supposed to represent bargaining unit employees in disputes with the employer.

Wade was aware that Deslongchamp was serving as shop steward, but she still considered Frederickson to be a steward as well. Wade testified that

Deslongchamp gave her incorrect advice about the interpretation of the collective bargaining agreement. Wade further testified that she often spoke to Frederickson about contract problems because Frederickson had a good understanding of the agreement. Deslongchamp testified that Wade never asked her any questions about the contract or its application to CTAS employees.

The unsettled situation continued through 1982. At some time near the end of the year, Frederickson received some kind of notice about her removal as shop steward, but not from complainant. In a letter to Basarab, dated February 18, 1983, Frederickson explained her situation. While acknowledging the existence of the July 8, 1982 letter to Wade, Frederickson asked for clarification about her status as a shop steward:

... To date, I am still acknowledged as a shop steward by Joan Wade and Bill Gates, Seattle Light Labor Relations Coordinator. Mr. Gates informed me that the shop steward list had not been changed or updated in two years. To date, I represent our members as shop steward at their request, and will continue to do so until otherwise notified by you. It has been nearly a year since you took this unilateral action. I think an explanation should be forthcoming immediately ...

At some unspecified point after the February 18, 1983 letter, Waske informed Frederickson that she was no longer considered to be a shop steward. Until that notification, Frederickson continued to act as shop steward, and Wade continued to discuss contract matters with her. The record does not indicate whether Wade spoke with Frederickson in the role of shop steward after Frederickson received Waske's notification.

In April, 1983, the union conducted another officer election. Frederickson did not run for shop steward at that time. Union electioneering took place in and around the CTAS work area. Election flyers were posted on employee bulletin boards, and employees took part in active discussions about the candidates and their positions. However, the record does not suggest that Wade took any part in the discussions, or spoke to any employee about the candidates for office or her feelings about the union.

Another union officer election was conducted in November, 1983. As in the case of April, 1983 election, union employees participated in an extensive political campaign in the CTAS work area. However, the record does not indicate that Wade discussed the election with CTAS employees, or tried to influence voting.

The allegations concerning Wade's involvement with Frederickson must be dismissed because of a lack of clarity as to the time the violation allegedly took place. Frederickson was finally notified that she was not a shop

steward "sometime after February, 1983". The record does not indicate that Wade had any discussions with Frederickson as a "steward" after February, 1983. Given the lack of specificity, complainant cannot sustain its argument that the events took place within the statutory period.

Turning to the November, 1983 union officer elections, complainant is faced with a similar problem. In its closing brief, complainant admits that there is no direct evidence that Wade had any part in the choice of candidates. Rather, complainant maintains that Wade's anti-union attitude, in itself, influenced the election's outcome. Wade did believe that some employees were more supportive of her position as supervisor, but the record does not show that any of these employees ran for office or used their status as "Wade's friends" to influence the election.

Encouraging Racial Discrimination Grievances

Apart from the controversies involved with the various union elections and the shop steward matter, Wade and the union became involved in a dispute concerning race discrimination. Wade, a black employee, was an active member in the City Light Black Employees Association (CLBEA). The association is used as a vehicle to express black employees' concerns about City Light management practices. Membership in CLBEA is not related to union membership in any way. Several black CTAS employees were members of the association, and they regularly attended CLBEA meetings with Wade.

The record indicates that Wade often criticized the union's relationship with black employees. Wade was outspoken in her belief that the union treated black employee grievances differently and that the union did not adequately represent the best interests of black employees at city light. Apparently, Wade and several black CTAS employees met with the department's equal employment opportunity officer, Buzz Jackson, to discuss the union situation. Neither party to these proceedings could indicate when that meeting took place.

One black employee, Odessa Gardner, decided to file a grievance against city light on the basis of racial discrimination. Evidently, the union encouraged Gardner's action, and Basarab accompanied her to several meetings with Equal Employment Opportunity officials. Gardner testified that the union took a considerable amount of time to "get the grievance moving", and that Basarab insisted on "changing" the grievance several times. The record does not indicate how the grievance was resolved. The record is unclear as to Wade's participation in the grievance process. Wade knew Gardner, and they were often seen talking to one another. There is no direct evidence that Wade encouraged or aided Gardner's action against the city.

Gardner filed a second complaint alleging racial discrimination, but this time she alleged that Diana Moore had actively discriminated against her. Moore, a union vice-president and the shop steward in another City Light section, testified that Wade instigated Gardner's grievance against her. To support her contention, Moore testified that Equal Employment Opportunity officer Jackson told her that Moore was "getting bad advice" about the nature of the grievance. Moore often witnessed Gardner and Wade speaking to one another, and she assumed that Wade was counseling Gardner. Wade testified that she knew of Gardner's dispute with the union but did not discuss it with her. Gardner testified that Wade did not know of her complaint against the union. The record indicates that Gardner's grievance against Moore was withdrawn.

Complainant's case concerning racial discrimination grievances rests upon a great deal of conjecture. Witnesses called by complainant could not offer specific incidents of Wade's participation in employee grievances against the union. In fact, the record indicates that only one grievance was ever filed by a black employee. Odessa Gardner presented uncontroverted testimony that she brought her racial discrimination claim without Wade's knowledge or assistance. While Wade is active in a black employee association and regularly speaks with black employees during business hours, such actions are not sufficient to support complainant's charge that Wade actively encouraged racial discrimination complaints against the union.

Excessive Discipline of "Pro-Union" Employees

Complainant presented a number of witnesses who testified about the existence of factions within CTAS, and Wade's disparate treatment of those employees she considered to be "pro-union" or "pro-Basarab". The union's chief shop steward, Larry Works, testified that he was aware of a general feeling of fear within CTAS, and that employees expressed concern that Wade would take disciplinary reprisals against them if they took grievances to the union. To the best of Works' recollection, the expressions of concern took place from 1979 through 1981. Works did not know of specific instances of severe discipline for employees considered to be "pro-union".

Diana Moore testified that several CTAS employees approached her about Wade's preferential treatment of certain individuals identified as "pro-Wade" activists. Moore testified that the employees generally refused to file formal grievances because they were afraid of Wade's reaction. However, Moore could not supply specific complaints raised or dates when the employees approached her.

Wade and Moore themselves became involved in a dispute at the latter part of 1983. On December 20, 1983, Moore was serving in her regular capacity as supervising clerk in the Tank Rental and Service Support Section. Wade was serving as acting Customer Assistance Manager. On December 20, weather conditions worsened as the day progressed, and several employees under Moore's supervision expressed concern about travel through the snow that had been accumulating. Moore decided to allow employees to leave early, if they took vacation time. Moore did not inform Wade of the decision. On December 21, 1983, Wade sent Claire Lewis a memorandum, complaining about Moore's actions. In the memorandum, Wade described Moore's decision as:

... a deliberate effort by her (Moore) to circumvent me and again I am informing you that I intend to refer this incident to my attorney as another effort by a union faction to refuse to accept my presence as a supervisor.^{1/}

On December 29, 1983, Moore sent a memorandum to Lewis, disputing Wade's interpretation of events surrounding the early release of employees. The record does not indicate whether Moore received any discipline for the early release of employees she supervised.

Wade and Moore have had a poor relationship for a number of years. Wade considered Moore to be an "anti-Wade" union activist. For her part, Moore believed that Wade was generally unsympathetic for union concerns. Given this volatile environment, it is conceivable that statements and actions can be misconstrued or taken out of context. In the "snow day" incident, Wade complained to a superior that Moore ignored her and circumvented her supervisory position when Moore released employees early. Apart from the memorandum Wade sent, however, there is no record of any disciplinary action taken against Moore. While Moore and Wade have a difficult personal relationship, there is no indication that Wade's complaint about the early release interfered with Moore's rights as a union member or somehow interfered with the union's internal structure.

Conclusion

The types of conduct alleged in this case could, if proved, constitute unfair labor practices by the city. In the absence of sufficient evidence to support the allegation, however, the complaint charging unfair labor practices is dismissed.

^{1/} At the time of hearing, Wade had filed a lawsuit against the City of Seattle and International Federation of Professional and Technical Engineers, Local 17, alleging that the city and the union conspired to discriminate against on the basis of her race and sex.

FINDINGS OF FACT

1. The City of Seattle is a "public employer" within the meaning of RCW 41.56.030(1). The city's public utility, Seattle City Light, is composed of various departments, divisions and sections within the utility's administrative structure. The Customer Telephone Assistance Service (CTAS) is a section providing help and information to utility customers. Wade has been CTAS supervisor since 1977.
2. International Federation of Professional and Technical Engineers, Local 17 is a "bargaining representative" within the meaning of RCW 41.56.030(3). The union represents CTAS employees with the exception of Joan Wade.
3. Wade and the union's representatives have had a difficult relationship. Wade has made statements that the union has attempted to circumvent her authority as supervisor and actively worked to frustrate her attempts to manage CTAS activities.
4. During a 1982 election campaign for union officers, Wade spoke with Denise Beaver, a bargaining unit employee, about candidates for office.
5. Union officer elections were conducted in April, 1983, and November, 1983. There is no evidence that Wade spoke to any employees about the elections or candidates.
6. Gay Frederickson, a CTAS employee, was a shop steward for the union. At some unspecified time in 1982, the union allowed CTAS employees to select a new steward. Wade was informed of Frederickson's removal as steward by letter dated July 8, 1982. Frederickson was not notified of her removal as shop steward and she continued to act in that capacity until February, 1983. Wade continued to discuss contract interpretation after July 8, 1982. There is no evidence that Wade spoke to Frederickson in such a capacity in the six-month period immediately before the filing of this unfair labor practice case.
7. Wade is a member of a black employee group. In that capacity, she has discussed her attitudes about the union with black bargaining unit members. There is no credible evidence that she encouraged black employees to file grievances against the union on the basis of racial discrimination.

8. On December 20, 1983, Diana Moore, a bargaining unit member and a shop steward, released several employees under her supervision due to inclement weather. Wade believed that Moore should have reported that decision to her, and wrote a memorandum complaining about Moore's action. Moore was not disciplined for the action.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter pursuant to Chapter 41.56 RCW.
2. By events described in Findings of Facts 4 through 8, above, the City of Seattle did not commit an unfair labor practice within the meaning of RCW 41.56.140(1) and (2).

ORDER

Based upon the foregoing and the record as a whole, the complaint charging unfair labor practices is hereby dismissed.

DATED at Olympia, Washington, this 12th day of June, 1985.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


KENNETH J. LATSCH, Examiner

This Order may be appealed by filing a petition for review with the Commission pursuant to WAC 391-45-350.