

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

WASHINGTON STATE COUNCIL OF COUNTY)	
AND CITY EMPLOYEES, LOCAL 275,)	
)	
Complainant,)	CASE 15308-U-00-3865
)	
vs.)	DECISION 7239 - PECB
)	
GRAYS HARBOR COUNTY,)	PARTIAL DISMISSAL AND
)	ORDER FOR FURTHER
Respondent.)	PROCEEDINGS
)	
)	

The complaint charging unfair labor practices in the above-referenced matter was filed with the Public Employment Relations Commission on July 17, 2000, by Washington State Council of County and City Employees, Local 275 (union). The complaint involves three allegations against Grays Harbor County (employer). The allegations concern: (1) Interference with employee rights; (2) Discrimination; and (3) Domination or assistance of union.

A Deficiency Notice was issued for the third allegation of the complaint on November 14, 2000 under WAC 391-45-110¹. The deficiency notice indicated that it was not possible to conclude that a cause of action exists at this time for the allegations of employer domination or assistance of union in violation of 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.

41.56.140(2). The deficiency notice stated that none of the facts alleged in the complaint suggest that the employer has involved itself in the internal affairs or finances of the union, or that the employer has attempted to create, fund, or control a "company union". See City of Anacortes, Decision 6863 (PECB, 1999).

The deficiency notice concluded that, assuming that all of the facts alleged in the complaint are true and provable, it appears that an unfair labor practice violation could be found for the first and second allegations of the complaint. The deficiency notice informed the union that absent the filing and service of an amended complaint stating a cause of action within 21 days following the date of the deficiency notice, the third allegation of the complaint would be dismissed. An amended complaint was filed by the union on December 1, 2000, indicating that it was withdrawing its allegations of unfair labor practices under RCW 41.56.140(2).

NOW THEREFORE, it is

ORDERED

1. Assuming all of the facts alleged to be true and provable, the first and second allegations of the complaint state a cause of action, summarized as follows:

Employer interference with employee rights and discrimination in violation of RCW 41.56.-140(1), by reducing overtime opportunities for sign technicians Ken Jacobson and Steve Brumfield in reprisal for their union activities protected by Chapter 41.56 RCW.

The first and second allegations of the complaint will be the subject of further proceedings under Chapter 391-45 WAC.

2. Grays Harbor County shall:

File and serve its answer to the allegations listed in paragraph 1 of this Order, within 21 days following the date of this Order.

An answer shall:

- a. Specifically admit, deny or explain each fact alleged in the complaint, except if a respondent states it is without knowledge of the fact, that statement will operate as a denial; and
- b. Assert any affirmative defenses that are claimed to exist in the matter.

The answer shall be filed with the Commission at its Olympia office. A copy of the answer shall be served on the attorney or principal representative of the person or organization that filed the complaint. Service shall be completed no later than the day of filing. Except for good cause shown, a failure to file an answer within the time specified, or the failure to file an answer to specifically deny or explain a fact alleged in the complaint, will be deemed to be an admission that the fact is true as alleged in the complaint, and as a waiver of a hearing as to the facts so admitted. See WAC 391-45-210.

3. The third allegation of the complaint concerning employer domination or assistance of union in violation of RCW

41.56.140(2) is DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 14th day of December, 2000.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARK S. DOWNING, Director of Administration

Paragraph 3 of this order will be the final order of the agency on any defective allegations, unless a notice of appeal is filed with the Commission under WAC 391-45-350.