STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

AMALGAMATED TRANSIT UNION, LOCAL 587, Complainant,	)	CASE 13899-U-98-3418
vs.	)	DECISION 7104-A - PECB
KING COUNTY, Respondent.	)	DECISION OF COMMISSION

Frank Rosen Freed Roberts, by *Clifford Freed*, Attorney at Law, for the complainant.

Norm Maleng, King County Prosecuting Attorney, by *Donald P. Porter*, Deputy Prosecuting Attorney, for the respondent.

This case comes before the Commission on an appeal filed by King County, seeking to overturn the Findings of Fact, Conclusions of Law, and Order issued by Examiner Martha Nicoloff.[1] The Commission affirms.

BACKGROUND

The facts are fully detailed in the Examiner's decision and are only summarized here in relevant part.

King County (employer) operates public transportation (bus) services and related facilities. Amalgamated Transit Union, Local

[1] *King County*, Decision 7104 (PECB, 2000).

587 (union), represents custodians employed in the employer's public transportation operation.

Annie Summers has worked as a custodian in the transportation operation since April 1990. Ken Taft was Summers' supervisor at all times relevant to this case. Summers described her working relationship with Taft as "difficult at best" up to November of 1997. Transcript 53.

On November 13, 1997, Taft learned that a window washer had cut an artery in an accident, and Taft assigned Summers to clean up the resulting blood spill. Although Summers became ill, she cleaned up the blood. On November 24, 1997, Summers filed a grievance over the incident.[2]

Bereavement Leave Controversy -

On December 9, 1997, while the participants were assembling for the first-step meeting on the blood spill grievance, Summers received a telephone call informing her that her uncle had died. Due to a misunderstanding by another employee, Taft and his supervisor, Paul Sorensen, believed that Summers' brother had died. Sorensen gave assurances that there would not be a problem in granting Summers funeral leave, and Summers left work almost immediately.

Summers submitted a request for funeral leave on December 15, 1997, indicating that her uncle had died. Under the terms of the parties' collective bargaining agreement, an employee is entitled to two days off with pay when a brother dies, and the employer has discretion to allow funeral leave for the death of other relatives where there is a close family relationship. In this instance, it

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[2] The employer denied the grievance at both the first and second steps.

is not disputed that Summers' uncle played a significant part in her life. Sorensen directed Taft to tell Summers that the employer could not allow funeral leave for an uncle under the terms of the collective bargaining agreement, but that they would try to find other ways to make sure that her time off was covered.

Summers was then on medical leave for a time, before returning to work on January 4, 1998. A few days after Summer returned to work, on January 7, 1998, Taft and Summers discussed her bereavement leave. After meeting with Taft, Summers informed Kimball Daniels, a union representative, that her bereavement pay had been denied. Daniels then spoke with Taft, and later spoke with Sorensen. Sorensen agreed to grant paid bereavement leave to Summers.

Overtime Controversy -

On January 12, 1998, Summers heard an announcement declaring a snow emergency. Swing shift employees arrived for work two hours earlier than usual, and Summers learned they had been given overtime due to the emergency. Summers filed a grievance, asserting that she was already on-site and had more seniority than at least one employee who was given overtime. After a first-step grievance meeting where Daniels and Kenny McCormick represented the union, Sorensen determined that Summers should be awarded two days overtime pay.

Proceedings Before the Examiner -

On May 6, 1998, the union filed this unfair labor practice case. A hearing was held. The Examiner dismissed allegations that the employer discriminated against Summers due to her exercise of collective bargaining rights, but found that the employer interfered with the exercise of those rights in violation of RCW 41.56.140(1). On July 11, 2000, the employer filed a notice of appeal, bringing this case before the Commission.

POSITIONS OF THE PARTIES

The employer argues that paragraphs 11 and 13 of the Examiner's Findings of Fact are unsupported by the record; paragraph 2 of the Examiner's Conclusions of Law is unwarranted; the Order should be overturned in its entirety; and the case should be dismissed. The employer asserts that even if the Commission does not overturn the entire Order, the Commission should nevertheless strike paragraph 2(B) of the Order because such a requirement is punitive.

The union argues that the Examiner's Findings of Fact, Conclusions of Law, and Order are fully supported by the record; and that Order 2(B), requiring that the "Notice" be read into the record of a public meeting of the King County Council, is reasonable and remedial and should therefore be affirmed.

DISCUSSION

Applicable Standards

Interference Violations -

The Public Employees' Collective Bargaining Act, Chapter 41.56 RCW, prohibits employers from interfering with a public employee who exercises collective bargaining rights. The statute provides:

> RCW 41.56.040 RIGHT OF EMPLOYEES TO ORGANIZE AND DESIGNATE REPRESENTATIVES WITHOUT INTERFERENCE. No public employer, or other person, shall directly or indirectly, interfere with, restrain, coerce, or discriminate against any public employee or group of public employees in the free exercise of their right to organize and designate representatives of their own choosing for the

> purpose of collective bargaining, or in the free exercise of any other right under this chapter.

Enforcement of these rights is through the unfair labor practice provisions of the statute:

> RCW 41.56.140 UNFAIR LABOR PRACTICES FOR PUBLIC EMPLOYER ENUMERATED. It shall be an unfair labor practice for a public employer:
> (1) To interfere with, restrain, or coerce public employees in the exercise of their rights guaranteed by this chapter;
> . . .

The Commission has jurisdiction to determine and remedy unfair labor practices. RCW 41.56.160.

The burden of proving an allegation of unlawful interference with the exercise of rights protected by Chapter 41.56 RCW rests with the complaining party and must be established by a preponderance of the evidence, but the test for deciding such cases is relatively simple. WAC 391-45-270; *City of Tacoma*, Decision 6793-A (PECB, 2000); *City of Omak*, Decision 5579-B (PECB, 1997).

The reasonable perceptions of employees are critical when evaluating "interference" allegations under RCW 41.56.140(1). A complainant need only establish that a party engaged in conduct that an employee could reasonably perceive as a threat of reprisal or force or promise of benefit associated with their union activity. *City of Seattle*, Decision 3066 (PECB, 1989), *aff'd*, Decision 3066-A (PECB, 1989). *See also City of Tacoma, supra; Cowlitz County*, Decision 7037(PECB, 2000); *City of Pasco*, Decision 3804-A (PECB, 1992). The legal determination of interference is based not upon the reaction of the particular employee involved,

but rather on whether a typical employee in a similar circumstance reasonably could perceive the actions as attempts to discourage protected activity. *City of Tacoma, supra.*

An intent or motivation to interfere is not required to show an interference with collective bargaining rights. *City of Tacoma, supra; Cowlitz County, supra.* Nor is it necessary to show that the employee involved was actually coerced. *City of Tacoma, supra; Cowlitz County, supra.* It is not even necessary to show anti-union animus for an interference charge to prevail. *City of Tacoma, supra; Cowlitz County, supra.*

The timing of adverse actions in relation to protected union activity can support an inference of an interference violation under RCW 41.56.140(1). *City of Omak, supra; Mansfield School District,* Decision 5238-A (EDUC, 1996); and *Kennewick School District,* Decision 5632-A (PECB, 1996).

- In *City of Omak, supra,* an interference violation was based on e-mail messages sent three and a half months after the filing of a grievance, but designed to "stomp on" bargaining unit employees in response to the exercise of grievance rights.

- In *Mansfield School District, supra,* an interference violation was based on protected activity that occurred four months prior to the employer advising the employee that adverse action was being taken against her husband and five months prior to the employer advising the employee that adverse action was being taken against her.

- In *Kennewick School District, supra,* an interference violation was based partially on a reprimand that occurred less than three months after the protected activity.

Substantial Evidence and Credibility Determinations -
When considering appeals from this agency, the Washington state courts look for substantial evidence supporting our decisions. *Cowlitz County*, Decision 7007-A (PECB, 2000). Likewise, we have affirmed decisions in numerous cases where, after reviewing the record on appeal, we found substantial evidence to support the Examiners' Findings of Fact, and those findings supported the Conclusions of Law. Substantial evidence exists if the record contains evidence of sufficient quantity to persuade a fair-minded, rational person of the truth of the declared premise. *Bering v. Share*, 106 Wn.2d 212 (1986). The rule is based upon the notion that the trier of fact is in the best position to decide factual issues. The Commission has previously noted:

> We attach considerable weight to the factual findings and inferences therefrom made by our Examiners. They have had the opportunity to personally observe the demeanor of the witnesses. The inflection of the voice, the coloring of the face, and perhaps the sweating of the palms, are circumstances that we, as Commission members are prevented from perceiving through the opaque screen of a cold record. This deference, while not slavishly observed on every appeal, is *even more appropriate of a "fact oriented" appeal* . . .

Port of Pasco, Decision 3307-A (PECB, 1990); *Educational Service District 114*, Decision 4361-A (PECB, 1994) (emphasis added).

In a situation where the participants recall different versions of events, and where it does not appear they are being deliberately deceptive, the trier of fact may look to other clues in the record that might reveal what actually occurred. In *City of Mill Creek*, Decision 5699 (PECB, 1996), the Examiner relied on notes taken at a meeting in addition to testimony about the meeting to determine what actually occurred.

Application of Standards

The employer asserts that the Examiner's Findings of Fact 11 and 13 are unsupported by the record, while the union asserts that there is substantial evidence to support the Examiner's findings. Based on a full review of the record, the Commission finds that there is substantial evidence to support Findings of Fact 11 and 13, and that those findings support Conclusion of Law 2.

Credibility Determinations -

In this case, the Examiner made credibility determinations and did not solely rely on the testimony of either Taft, Summers, or another custodian, Brenda Mies. The Examiner stated:

> Where there were no other witnesses to an incident, but where specific facts are deemed critical to a conclusion or particular inferences appear warranted, those are noted in the analysis of the incident. Where other individuals witnessed or were involved in incidents, their testimony has generally been credited.

The Examiner made credibility determinations because (1) Taft and Summers had a contentious working relationship causing them to draw negative conclusions about the other and depict their own actions as more innocent than warranted; and (2) Taft had problems communicating with Mies causing them to draw similar negative conclusions about each other.

During the hearing, the Examiner herself observed Mies' and Summers' negative reactions to testimony from Taft. These problems cast doubt on the credibility of testimony or made analysis difficult. Thus, it was proper for the trier of fact to make such

credibility determinations, and the Commission will not disturb them on appeal.

Blood Spill Incident -

The only relevant point regarding the blood spill incident is that Summers engaged in union activities by filing a grievance. Facts relating to the blood spill are irrelevant to this action because the merits of the grievance are not at issue. Rather, the issue here is whether the employer has engaged in conduct that could reasonably be perceived as reprisal for union activities.[3]

Timing -

In this case, the timing of adverse actions in relation to protected union activity support the Examiner's inference of an interference violation. Summers' grievance over the blood spill incident was filed at the end of November 1997. She was absent from work from mid-December to January 4, 1998. Taft confronted Summers with the denial of her bereavement leave just a few days after her return to work. Soon thereafter, on January 12 and 13, 1998, Taft failed to offer overtime opportunities to Summers. Thus, an employee could reasonably perceive the employer's actions, coming about a month and a half after a grievance was filed, as relating to the pursuit of protected rights.

Bereavement Leave -

Paragraph 11 of the Examiner's Findings of Fact, concerning the bereavement leave controversy, states as follows:

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[3] Moreover, because the employer's notice of appeal asserts that only Findings of Fact 11 and 13 are in error, we will only respond to factual assertions dealing with Summer's funeral leave request and opportunity for overtime.

> Taft met separately with Summers and with a union representative, but failed to completely communicate the information that Sorensen had directed him to convey. Specifically, Taft communicated that Summers' request for funeral leave would be denied, but failed to communicate Sorensen's assurance that the employer would find a way to cover the time off Summers had taken. The conversation between Taft and Summers was contentious, and an employee in the status and situation occupied by Summers in this case could reasonably have perceived Taft's statements as threats associated with the exercise of their collective bargaining rights.

Sorensen testified that after he learned it was Summers' uncle who had died, he called Taft and asked Taft to contact Summers and let her know that the employer could not allow the funeral leave, but that the employer should try to find other ways to make sure that the time off she had was covered. Transcript 146. He also testified that there was never any question in his mind that Summers would not suffer any loss of pay for those days that she took to attend her uncle's funeral and that the employer "would go to any length to make sure that she received a full amount of pay that she should be getting." Transcript 194. Sorensen met with Daniels and learned that Summers' uncle was a significant person in her life; thereafter, he decided to go ahead and grant the bereavement leave. Transcript 147.

Summers' testified that Taft told her she was not going to get paid for bereavement leave because she had lied about who died.[4] Transcript 70-71. She testified that she told Taft that she had not lied. Transcript 71. She stated that Taft's tone of voice during the meeting was "[v]ery arrogant, nasty, sarcasm," that he

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[4] It is undisputed that Summers did not lie about who died.

kept raising his voice, and that she had to "raise [her] voice in order to be heard. Transcript 71-72.

Daniels testified that he went to Taft's office with Summers and Taft told him Summers had said that it was her brother who died, and because it had been her uncle who died, he was not going to grant bereavement pay. Transcript 21. Daniels testified that "at some point the conversation got a little bit heated." Transcript 21. He also testified that Taft stated he felt "he was being harassed" by Summers and Daniels. Transcript 22. Finally, Daniels testified that Taft did not indicate, in any form or manner, that he or the employer were going to find a way to pay the bereavement leave. Transcript 334-35.

Taft testified that he called Summers to his office and told her there was "a little problem" with her leave request, "tried to explain to her that we were going to find another way to cover her time," and tried to show the applicable contract language to her, but that she became very upset and accused him of harassment saying "management, in general, was picking on her again." Transcript 251, 286. Taft denied accusing Summers of lying about who died. Transcript 251, 287. He remembered telling her "no one is trying to deny you the time," but admitted Summers was under the impression that he was denying the bereavement leave. Transcript 251, 286. Taft told Daniels he felt like he was being harassed by both Summers and Daniels, and stated he "never got an opportunity to explain what was going on." Transcript 285.

We hold that the Examiner's Finding of Fact 11 is supported by substantial evidence. Taft's denial of Summers' funeral leave could reasonably be perceived as relating to Summers' grievance.

The employer assigns error to this finding challenging whether an employee in the status and situation occupied by Summers could reasonably perceive Taft's statements as threats. The employer argues that this finding is not supported by the record because (1) Summers was not aware that Sorensen had instructed Taft to assure her that the leave would be covered in some way; (2) under the parties' collective bargaining agreement, bereavement leave for the death of an uncle is discretionary; (3) Summers' claims for interference stem from interactions with Taft alone, and it is undisputed that Sorensen, not Taft, made the initial decision to deny Summers' leave request; (4) Taft did not use language that linked the denial of the bereavement leave to Summers' grievance; and (5) the timing of the death of Summers' uncle, the date Summers returned to work, and Sorensen's directive, were not prompted by Taft. We are not persuaded by those arguments, however.

As discussed above, the complainant need only establish that a party engaged in conduct which an employee could reasonably perceive as a threat of reprisal or force or promise of benefit associated with their union activity. Because the employee's reasonable perception is at issue, Taft's failure to express Sorensen's intent to cover the leave in some fashion is relevant, notwithstanding Summers' lack of knowledge. Similarly, regarding the collective bargaining agreement, interactions with Taft, and the timing of events, Summers reasonable impression is at issue.

The Examiner explained there is undisputed evidence that Sorensen instructed Taft to tell Summers that the employer would find some way to cover the time off. She explained a key fact was that Taft never told Summers or the union representative that the employer was going to try to cover the leave. The Examiner reasoned that it strains credulity to accept that Taft was completely unable to

explain, on two different occasions and with two different individuals, that Summers' time off would be covered. The Examiner gave weight to Daniels' testimony because he had no prior negative history with Taft, and his testimony did not dramatize the situation in the union's favor. She added that the timing of Taft's actions as well as his angry manner in exercising his opportunity to convey to Summers the employer's desire to provide bereavement pay in some fashion support finding a violation. We agree with the Examiner's analysis and finding.

Overtime Controversy -

Paragraph 13 of the Examiner's Findings of Fact concerning the snow days controversy states as follows:

> On January 12 and 13, 1998, while the dispute concerning the request for funeral leave remained pending or soon after it was resolved, the employer declared a snow emergency. Taft failed to offer Summers overtime work opportunities in the same manner as offered to other employees in the same or similar classifications. While Taft testified that he did not see Summers on the first day of the snow emergency, credible evidence establishes that she was at work on that day, that Taft did not leave a message for her on the telephone company voice-mail service connected to her home telephone, and that Taft did not offer Summers the opportunity for overtime work on the second day of the snow emergency. An employee in the status and situation occupied by Summers in this case could reasonably have perceived Taft's actions as interference with the exercise of their collective bargaining rights.

Summers testified that she has had U.S. West voice mail on her home telephone for five years, has had no incidence of missed calls, and stated that it was "working beautifully." Transcript 340. Summers

testified she worked the early morning shift on January 12, about 11:00 a.m. the vehicle maintenance department announced a snow emergency, and about 1:00 p.m. two swing shift employees came in on overtime. Transcript 73-74. Summers testified that Joe Smith, one of the two swing shift custodians who worked overtime, was not scheduled to work on January 12; and the other employee, Brenda Mies, had less seniority than she did. Transcript 74-75.

Summers testified that she went to Taft and asked him why she had not been given the opportunity to work overtime since she was already on-site and was senior to at least one employee who was given overtime. Transcript 74. Taft responded that as chief it was his prerogative to designate duties the way he saw fit. Transcript 75. Summers testified that Taft responded "[n]asty, like don't ask, you know; [i]ts my decision; just leave it alone." Transcript 75. Summers testified that after she filed a grievance over being denied overtime, Taft stopped her and told her that "he was going to pay [her] for one day . . . but not the other day;" she responded that one day was not acceptable; and he said "Annie you will never learn." Transcript 76. His response was "[r]eal hard, harsh, very harsh like a child being disciplined." Transcript 76.

Taft testified that in preparation for the snow day, he went through his crew roster and called everyone at home on January 11, 1998, to see whether they would be interested in working overtime if it actually snowed. Transcript 252. He stated that he called Summers twice, but did not get an answer and that there was no answering machine. Transcript 252, 293, 295. Taft testified that none of the day personnel, of which Summers was one, worked overtime on January 12, 1998, because "the snow didn't hit until late afternoon, early evening, after which Ms. Summers had already

gone home." Transcript 252-53, 293-94. Rather, he testified that on January 12 two swing shift employees came in two hours early, and on January 13 one day shift employee worked two hours late. Transcript 293. Additionally, Taft testified that he did not see Summers on January 12 and did not try to reach her for overtime opportunities on January 13. Transcript 294.

We hold that there is substantial evidence in the record to support Finding of Fact 13. Taft's failure to offer overtime work to Summers on the same basis as other employees could reasonably be perceived as related to Summers' grievance.

On appeal, the employer assigned error to this finding arguing that adherence to assignment of overtime by seniority is not required in an emergency, the need for overtime work was dictated by the beginning of the snowfall, there is no reason to believe that Taft saw Summers on January 12, 1998, or that he ignored her availability for overtime work, and Summers did not have a superior right to overtime work.

The employer's arguments are misplaced. Taft testified that he called everyone on his crew roster to determine availability, including Summers. Regardless of seniority rights, or if Summers was actually at work on January 12 when the snow began falling, Taft did not treat all his employees in the same manner. Thus, his actions could reasonably be perceived as interfering with protected collective bargaining rights.

Similar to the Examiner in *City of Mill Creek, supra*, the Examiner here looked for other clues in the record or verifiable facts that supported one witness or the other. The Examiner's statement that her analysis of the overtime allegation was based on evidence other

than the testimony of Taft and Summers amounted merely to saying that she would not solely rely on either party's testimony; contrary to the employer's argument, her analysis did not deprive her of the ability to rely on one party's testimony when that testimony was supported by a verifiable fact.[5] Summers' unimpeached testimony was that she had U.S. West voice-mail service for five years and has had no reported problems. The Examiner explained that because it directly contradicted Taft's testimony, the failure of the employer to impeach Summers' testimony about the voice-mail service supported a finding that Summers was telling the truth. It was proper for the trier of fact to make such credibility determinations, and the Commission will not disturb them on appeal.

Examiner's Conclusion -

Paragraph 2 of the Examiner's Conclusions of Law states the "interference" violation, as follows:

> By the actions of its agent Ken Taft in regard to the request of Annie Summers for funeral leave and in regard to the opportunity to work overtime during the snow emergency, King County has interfered with the exercise of collective bargaining rights protected by Chapter 41.56 RCW, and has committed, and is committing, unfair labor practices in violation of RCW 41.56.140(1).

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[5] The Commission does not suggest that Examiners must have verifiable facts before they can rely on one party's testimony instead of another party's testimony. As the trier of fact, an Examiner may even reject uncontested testimony as not credible as long as he or she does not rejected it arbitrarily. *See State v. Tocki*, 32 Wn. App. 457 (1982).

The employer assigns error to this conclusion because it rests on Findings of Fact 11 and 13.

Paragraphs 11 and 13 of the Findings of Fact are supported by substantial evidence, and those findings support the Examiner's conclusion that the employer interfered with the exercise of Summers' collective bargaining rights and committed unfair labor practices. As detailed above, the employer failed to convey its desire to provide bereavement pay to Summers and failed to offer overtime work to Summers in the same manner as offered to other employees. Both of these actions could be perceived by a reasonable employee as a threat of reprisal or force or promise of benefit associated with their collective bargaining rights.

Notice Read into Public Record

The employer argues that the Examiner's Order 2(B) is punitive, rather than remedial. The union argues that the order is reasonable and remedial.

Commission precedent supports the terms of the Examiner's order as a "standard" remedial practice. In *Seattle School District*, Decision 5542-C (PECB, 1997), the Commission required that the customary "Notice" be read into the record of the next public meeting of the governing body of the public employer and, in order to assure that the Notice became part of the permanent record, required that it be appended to the minutes of the meeting where it was read. Although the remedy may have been novel at the time the Examiner's decision was issued in *Seattle School District*, Decision 5542-B (PECB, 1997), the Commission fully supported the Examiner's approach. In determining that it is prudent for the public to be made aware of statutory violations by public employers, the

Commission reasoned that the legislature and courts have indicated a strong public interest in preserving records for public perusal on a long-term basis.[6] RCW 42.32.030 provides the following:

> The minutes of all regular and special meetings except executive sessions of such boards, commissions, agencies or authorities shall be promptly recorded and such records shall be open to public inspection.

The section applies to all public agencies as defined by RCW 42.30.020.

The Commission stated that it would be appropriate for that remedy to become standard in future cases where unfair labor practices are committed.[7] Subsequently, the "read into record and append to minutes" remedy has, in fact, become standard agency practice. Commission precedent has not distinguished between types or number of unfair labor practice violations in its application of this remedy.[8] *Oroville School District*, Decision 6209-A (PECB, 1998)(interference); *Reardan-Edwall School District*, Decision 6205

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[6] In *State ex rel. Bain v. Clallam County*, 77 Wn.2d 542 (1970), the Washington State Supreme Court held that all collective bargaining agreements must be in writing and that there was no agreement until it was adopted by the county at an open public meeting of the Board of Commissioners.

[7] *Seattle School District, supra* (interference and refusal to bargain violations).

[8] *But see City of Port Townsend*, Decision 6433-B (PECB, 2000) (holding notice need not be read into record at open, public meeting or attached to minutes of meeting, where although union was guilty of an interference unfair labor practice, its actions could also be interpreted as a misguided attempt to honor the collective bargaining agreement, and employee did not cooperate with union).

(PECB, 1998) (interference and refusal to bargain); *Richland School District*, Decision 6269 (PECB, 1998)(interference and refusal to bargain); *Washington Public Power Supply System*, Decision 6058-A (PECB, 1998)(refusal to bargain); *Seattle School District*, Decision 5733-B (PECB, 1998)(interference and refusal to bargain); *City of Puyallup*, Decision 6784 (PECB, 1999)(interference); *Cowlitz County*, *supra* (PECB, 2000) (interference and discrimination); *Port of Seattle*, Decision 7000-A (PECB, 2000)(interference and refusal to bargain).

The Commission reaffirms its earlier assessment that the public and the county council are entitled to know that the employer has committed unfair labor practices. Therefore, we affirm the Examiner's Order to read the notice into the record at the next public meeting of the King County Council and append a copy of the notice to the minutes of the meeting.

Conclusion

The union bore the ultimate burden of proving an unfair labor practice occurred, and this is the burden the Examiner properly found the union met regarding the Findings of Fact and Conclusion of Law discussed above. The union proved the employer interfered with Summers' exercise of her collective bargaining rights by failing to convey the employer's desire to provide bereavement pay and failing to offer overtime work to Summers in the same manner as offered to other employees. We find substantial evidence exists to support Findings of Fact 11 and 13 and Conclusion of Law 2 to which the employer assigned error on appeal. The Notice attached to the Examiner's Order shall be read into the record at a regular public meeting of the King County Council, and a copy of the notice shall be permanently appended to the official minutes of that meeting.

NOW, THEREFORE, it is

ORDERED

Findings of Fact 11 and 13, Conclusion of Law 2, and Order 2(B) issued by Examiner Martha Nicoloff in the above-captioned matter on June 21, 2000, are affirmed.

Issued at Olympia, Washington, on the 6th day of April, 2001.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

MARILYN GLENN SAYAN, Chairperson

SAM KINVILLE, Commissioner

JOSEPH W. DUFFY, Commissioner