

City of Renton, Decision 7476 (PECB, 2001)

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

RENTON POLICE OFFICERS GUILD,)	CASE 15837-U-01-4020
)	
Complainant,)	DECISION 7476 - PECB
)	
vs.)	CASE 15838-U-01-4021
)	
CITY OF RENTON,)	DECISION 7477 - PECB
)	
Respondent.)	PARTIAL DISMISSAL AND
)	ORDER FOR FURTHER
)	PROCEEDINGS
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RENTON POLICE OFFICERS GUILD,)	
)	
Complainant,)	CASE 15839-U-01-4022
)	
vs.)	DECISION 7478 - PECB
)	
CITY OF RENTON,)	
)	
Respondent.)	ORDER OF DISMISSAL
)	
)	

The complaints charging unfair labor practices in the above-referenced matters were filed with the Public Employment Relations Commission by the Renton Police Officers Guild (union) on June 1, 2001. The complaints were amended by the union on June 21, 2001. The complaint in Case 15837-U-01-4020, involving the commissioned employee unit, alleged that the City of Renton (employer) interfered with employee rights and discriminated against Guild President Mike Luther in violation of RCW 41.56.140(1), and dominated or assisted the union in violation of RCW 41.56.140(2), by comments of Police Chief Garry Anderson to Luther critical of an April 4, 2001, memo Luther sent to union members, in reprisal for Luther's union activities protected by Chapter 41.56 RCW.

The complaint in Case 15838-U-01-4021, involving the non-commissioned employee unit, alleged that the employer interfered with employee rights and discriminated in violation of RCW 41.56.140(1), and refused to bargain in violation of RCW 41.56.140(4), by adding inmate contact duties to the Police Administrative Secretary position, and by subcontracting work previously performed by the Evidence Custodian position, both without providing an opportunity for bargaining.

The complaint in Case 15839-U-01-4022, involving the commissioned employee unit, alleged that the employer interfered with employee rights and discriminated in violation of RCW 41.56.140(1), and refused to bargain in violation of RCW 41.56.140(4), by subcontracting work previously performed by the detective position, without providing an opportunity for bargaining.

The complaints were reviewed under WAC 391-45-110.¹ A deficiency notice was issued on July 17, 2001, indicating that it was not possible to conclude that a cause of action existed at that time in Case 15837-U-01-4020 for the allegation of employer domination or assistance of a union in violation of RCW 41.56.140(2). The deficiency notice stated that none of the facts alleged in the complaint suggested that the employer had involved itself in the internal affairs or finances of the union, or that the employer had attempted to create, fund, or control a "company union." See *City of Anacortes*, Decision 6863 (PECB, 1999).

¹ At this stage of the proceedings, all of the facts alleged in the complaints are assumed to be true and provable. The question at hand is whether, as a matter of law, the complaints state a claim for relief available through unfair labor practice proceedings before the Public Employment Relations Commission.

The deficiency notice indicated that for Case 15837-U-01-4020, the interference and discrimination allegations of the complaint under RCW 41.56.140(1) appeared to state a cause of action, and would be assigned to an examiner for further proceedings under Chapter 391-45 WAC, after the union had an opportunity to respond to the deficiency notice.

The deficiency notice indicated that it was not possible to conclude that a cause of action existed at that time in Case 15838-U-01-4021 for the allegation of employer discrimination in violation of RCW 41.56.140(1). The deficiency notice stated that the complaint failed to allege facts supporting any allegation that the employer's actions were taken in reprisal for union activities protected under Chapter 41.56 RCW.

The deficiency notice indicated that for Case 15838-U-01-4021, the interference and refusal to bargain allegations of the complaint under RCW 41.56.140(1) and (4) appeared to state a cause of action, and would be assigned to an examiner for further proceedings under Chapter 391-45 WAC, after the union had an opportunity to respond to the deficiency notice.

The deficiency notice indicated that it was not possible to conclude that a cause of action existed at that time in Case 15839-U-01-4022. The deficiency notice stated that the allegations concerned the employer's offer of employment to an individual outside of the bargaining unit. However, this individual did not accept the employer's employment offer. The deficiency notice indicated that there is no allegation that the employer actually transferred bargaining unit work to individuals outside of the unit. Absent such allegations, a cause of action cannot be found.

The deficiency notice advised the union that amended complaints could be filed and served within 21 days following such notice, and

that any materials filed as amended complaints would be reviewed under WAC 391-45-110 to determine if they stated a cause of action. The deficiency notice further advised the union that in the absence of timely amendments stating a cause of action, the allegations concerning employer domination or assistance of a union in violation of RCW 41.56.140(2) in Case 15837-U-01-4020, the allegations of employer discrimination in violation of RCW 41.56.140(1) in Case 15838-U-01-4021, and the complaint in Case 15839-U-01-4022 would be dismissed.

The union filed a letter on July 25, 2001, indicating that it would not be filing any amended complaints.

NOW, THEREFORE, it is

ORDERED

1. Assuming all of the facts alleged to be true and provable, the interference and discrimination allegations of the complaint under RCW 41.56.140(1) in Case 15837-U-01-4020 state a cause of action, summarized as follows:

Employer interference with employee rights and discrimination against Guild President Mike Luther in violation of RCW 41.56.140(1), by comments of Police Chief Garry Anderson to Luther critical of a April 4, 2001 memo Luther sent to union members, in reprisal for Luther's union activities protected by Chapter 41.56 RCW.

The interference and discrimination allegations of the complaint in Case 15837-U-01-4020 will be the subject of further proceedings under Chapter 391-45 WAC.

2. Assuming all of the facts alleged to be true and provable, the interference and refusal to bargain allegations of the complaint under RCW 41.56.140(1) and (4) in Case 15838-U-01-4021 state a cause of action, summarized as follows:

Employer interference with employee rights and refusal to bargain in violation of RCW 41.56.140(1) and (4), by adding inmate contact duties to the Police Administrative Secretary position, and by subcontracting work previously performed by the Evidence Custodian position, both without providing an opportunity for bargaining.

The interference and refusal to bargain allegations of the complaint in Case 15838-U-01-4021 will be the subject of further proceedings under Chapter 391-45 WAC.

3. The City of Renton shall:

File and serve its answer to the allegations listed in paragraphs 1 and 2 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 complaints, 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 matters.

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 complaints. 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 complaints, will be deemed to be an admission that the fact is true as alleged in the complaints, and as a waiver of a hearing as to the facts so admitted. See, WAC 391-45-210.

4. The allegation of employer domination or assistance of a union in violation of RCW 41.56.140(2) in Case 15837-U-01-4020 is DISMISSED for failure to state a cause of action.
5. The allegation of employer discrimination in violation of RCW 41.56.140(1) in Case 15838-U-01-4021 is DISMISSED for failure to state a cause of action.
6. The complaint charging unfair labor practices in Case 15839-U-01-4022 is DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 1st day of August, 2001.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARK S. DOWNING, Director of Administration

Paragraphs 4, 5, and 6 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.