

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

NORMA BRITT,)	
)	
Complainant,)	CASE 20951-U-07-5345
)	
vs.)	DECISION 9744-A - PECB
)	
KELSO SCHOOL DISTRICT,)	DECISION OF COMMISSION
)	
Respondent.)	
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NORMA BRITT,)	
)	
Complainant,)	CASE 20952-U-07-5346
)	
vs.)	DECISION 9745-A - PECB
)	
PUBLIC SCHOOL EMPLOYEES OF)	DECISION OF COMMISSION
WASHINGTON,)	
)	
Respondent.)	
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Norma Britt, appeared pro se.

Eric T. Nordlof, General Counsel, for the union.

Dionne and Rorick, by *Clifford D. Foster*, Attorney at Law, for the employer.

This case comes before the Commission on a timely notice of appeal filed by Norma Britt (Britt) seeking review and reversal of an order issued by Unfair Labor Practice Manager David I. Gedrose dismissing her complaints.¹ Kelso School District (employer) and Public School Employees of Washington (union) did not file briefs commenting upon Britt's appeal.

¹ *Kelso School District*, Decision 9744 (PECB, 2007).

ISSUE PRESENTED

The only issue on appeal is whether Britt's original and amended complaints state a cause of action that can be redressed by this Commission.² We have reviewed all of Britt's filings, including her complaint, amended complaint, and notice of appeal, and find the Unfair Labor Practice Manager properly dismissed her complaint.

ANALYSIS

Britt's complaint essentially invites this Commission to investigate her allegations. In this respect, Britt misunderstands the role of this Commission in administering Chapter 41.56 RCW. Unlike the National Labor Relations Board, this Commission does not investigate facts which are alleged in a complaint or make any judgment on the quality of the evidence that is available to a complainant. Rather, the question before the Unfair Labor Practice Manager is whether the complaint, on its face, states a cause of action that can be redressed through an unfair labor practice proceeding.

Britt makes several allegations against both the employer and union, including claims of a hostile work environment against the employer and a breach of the duty of fair representation by the union. The complained-of events focus upon a promotional opportunity in the employer's operation that Britt applied for, but that ultimately went to a different employee. Britt asserts that the

² Because we are reviewing an order of dismissal issued at the preliminary ruling stage of case processing under WAC 391-45-110, we are confined to the assumption uniformly applied in that process: All of the facts alleged in the complaint are assumed to be true and provable. *Whatcom County*, Decision 8246-A (PECB, 2004).

hiring process was not fairly conducted and that her qualifications were overlooked. Additionally Britt alleges that her union failed to represent her in a grievance she filed over the employer's handling of the promotional process.

Complaint Against Employer

With respect to Britt's allegation that the employer failed to follow the collective bargaining agreement regarding employee promotions, the Unfair Labor Practice Manager noted that this Commission does not assert jurisdiction over such claims, and Britt must seek redress either through grievance arbitration under the collective bargaining agreement or the courts. *See City of Walla Walla*, Decision 104 (PECB, 1976). Furthermore, Britt did not allege as part of her discrimination and hostile work environment claims that the employer acted in response to her exercise of union activity, rather she simply found the employer's process and decision to be unfair. We agree with the Unfair Labor Practice Manager's assessment that Britt's allegations are outside of the jurisdiction of this Commission, and Britt must seek redress through the courts.

Complaint Against Union

Britt also claims that the union failed to properly represent her regarding the grievance she filed in response to the promotional opportunity. The Unfair Labor Practice Manager also dismissed this complaint. Specifically, the Unfair Labor Practice Manager applied long-standing Commission precedent stating that while a union owes a duty of fair representation to all employees in the bargaining unit, this agency does not assert jurisdiction over "breach of the duty of fair representation claims" arising exclusively out of the processing of contractual grievances. *See Mukilteo School District (Public School Employees of Washington)*, Decision 1381 (PECB, 1982). We find no error in the application of this precedent to

the factual situation presented by Britt, and once again agree with his conclusion that Britt must seek redress through the courts for any claim she has that the union violated its duty of fair representation.

Conclusion

The name "Public Employment Relations Commission" is sometimes interpreted as implying a broader scope of authority than is actually conferred upon the agency by statute. The Commission's jurisdiction is limited to the resolution of collective bargaining disputes between employers, employees and unions. The agency does not have authority to resolve each and every dispute that might arise in public employment. Because Britt's allegations did not arise out of collective bargaining dispute, we lack jurisdiction to redress any of her claims.


NOW, THEREFORE, it is

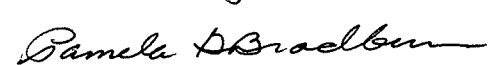
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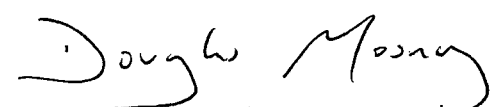
The Order of Dismissal issued by Unfair Labor Practice Manager David I. Gedrose in Case 20951-U-07-5345 and Case 20952-U-07-5346 is AFFIRMED.

Issued at Olympia, Washington, the 12th day of September, 2007.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


MARILYN GLENN SAYAN, Chairperson


PAMELA G. BRADBURN, Commissioner


DOUGLAS G. MOONEY, Commissioner