STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

DONALD J. WAKENIGHT, Complainant, vs. INTERNATIONAL FEDERATION OF PROFESSIONAL AND TECHNICAL ENGINEERS, LOCAL 17, AFL-CIO, Respondent.	CASE NO. 4905-U-83-846 DECISION NO. 1902 - PECB PRELIMINARY RULING

On October 13, 1983, the above-named complainant filed a complaint with the Public Employment Relations Commission, charging that both International Federation of Professional and Technical Engineers, Local 17, AFL-CIO, and the City of Seattle had committed unfair labor practices in violation of 41.56 RCW. Two separate cases were docketed: The captioned matter to deal with the allegations against the union; Case No. 4904-U-83-845 to deal with the allegations against the employer. The material allegations of the complaint are:

> On March 22, 1982 the Union Local 17 I.F.P.T.E. file (sic) a grievance regarding my classification with the City of Seattle. The Union Local 17 I.F.P.T.E. and the City of Seattle repeatedly voliate (sic) article 6 of the collective bargining (sic) agreement in handling this grievance. This was done over my objections to both parties.
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> At the second negotation (sic) session held on October 10, 1983 niether (sic) the Union Local 17 I.F.P.T.E. nor the City of Seattle arrived properly prepared. Niether (sic) the Union Local 17 I.F.P.T.E. nor the city of Seattle appeared to want to deal with this in a fair and timely manner. This classification matter dates back to before the effective date of any settlement which is March 10, 1981.

By letter filed on March 7, 1984, the complainant withdrew the charges against the employer, making no reference to the case against the union.

The matter is presently before the Executive Director for a preliminary ruling pursuant to WAC 391-45-110. At this stage of the proceedings, all of the facts alleged in the complaint are assumed to be true and provable. The

issue for determination is whether the complaint states a cause of action for unfair labor practice proceedings before the Public Employment Relations Commission.

It has long been established that the Public Employment Relations Commission does not assert jurisdiction through the unfair labor practice provisions of Chapter 41.56 RCW to remedy violations of collective bargaining agreements. See: City of Walla Walla, Decision 104 (PECB, 1976). The Commission has also declined to assert jurisdiction in cases where a labor organization is alleged to have breached its duty of fair representation exclusively in connection with the processing of a contractual grievance, in that the fair representation question is merely one of several elements to be proven in civil litigation for enforcement of the collective bargaining agreement. Mukilteo School District, Decision 1381 (PECB, 1982). Insofar as the complaint involves enforcement of contractual rights, disagreements with the union concerning the interpretation of the contract, or disputes as to the quality of representation provided by the union, those are beyond the scope of unfair labor practice proceedings before the Commission. The complainant would need to pursue his remedies through in the courts, through the internal processes of the union, or by seeking to exercise his rights under Chapter 41.56 RCW to obtain a change of exclusive bargaining representative for the unit.

An alternative view of the complaint would be to interpret it broadly (but far beyond its expressed terms) as a complaint that the union has discriminated against the complainant on some unspecified basis. A labor organization certified or recognized as exclusive bargaining representative of public employees enjoys, under RCW 41.56.080, a statutory status and privileges, and would not be at liberty to negotiate contractual provisions or adminster contractual provisions in a manner which discriminated on an impermissible basis against one or more sub-sets of the employees it represented. See: Tacoma Public Library, Decision 1734 (PECB, 1983); Elma School District, Decision 1349 (EDUC, 192); Steele v. Louisville & Nashville Railroad, 323 U.S. 192 (1944). However, no allegation of the complaint suggests that the union aligned itself in interest against the complainant, either in the negotiation of the contract or in the administration of that contract, for such an impermissible reason.

The complaint, as presently framed, fails to state a claim on which relief can be granted. With the direction provided here as to what is not available to the complainant through the unfair labor practice procedures of the Commission, he may be better able to focus attention on any claims which are within the jurisdiction of the Commission.

NOW, THEREFORE, it is

ORDERED

The complainant will be allowed a period of fourteen (14) days following the date of this order to amend the complaint. In the absence of an amendment, the complaint will be dismissed as failing to state a cause of action.

DATED at Olympia, Washington this 5th day of April, 1984.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

MARVIN L. SCHURKE, Executive Director