

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

RAYMOND HAMMERO,	)	
	)	CASE 8605-U-90-1871
Complainant,	)	
	)	
vs.	)	DECISION 3690 - PECB
	)	
WASHINGTON STATE COUNCIL OF	)	
COUNTY AND CITY EMPLOYEES, AFSCME,	)	ORDER OF DISMISSAL
	)	
Respondent.	)	
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RAYMOND HAMMERO,	)	
	)	CASE 8606-U-90-1872
Complainant,	)	
	)	
vs.	)	DECISION 3691 - PECB
	)	
SNOHOMISH COUNTY,	)	
	)	ORDER OF DISMISSAL
Respondent.	)	
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On May 23, 1990, Raymond Hammero (complainant) filed complaints charging unfair labor practices with the Public Employment Relations Commission, alleging that his employer, Snohomish County, had committed an unfair labor practice in violation of RCW 41.56.140,<sup>1</sup> and that his exclusive bargaining representative, the Washington State Council of County and City Employees, AFSCME, (union),<sup>2</sup> had committed an unfair labor practice in violation of RCW 41.56.150. The complaints concerned the complainant's attempts to process a grievance concerning his dismissal from employment with Snohomish County.

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<sup>1</sup> Case 8606-U-90-1872.

<sup>2</sup> Case 8605-U-90-1871.

The complaints were reviewed pursuant to WAC 391-45-110, and a letter was directed to the complainant on December 12, 1990, informing him that the complaints, as filed, did not appear to state a cause of action. The complainant was given a period of 14 days in which to file and serve amended complaints which stated a cause of action, or face dismissal of the complaints. Nothing further has been received from the complainant.

In the case filed against the employer, the complainant alleged that the employer acted improperly in the process of terminating his employment. It was noted in the preliminary ruling letter that, while the Commission would assert jurisdiction under RCW 41.56.140(1) with regard to a discharge alleged to have been motivated by participation in, or activity on behalf of, a union, there was no allegation of union activity in this case. It was observed that the Commission does not assert jurisdiction through the unfair labor practice provisions of the Act to determine disputes concerning interpretation or application of a collective bargaining agreement, and that such contract violations must be litigated through arbitration or a lawsuit brought in the courts. City of Walla Walla, Decision 104 (PECB, 1976). It was thus concluded that the complaint did not state a cause of action for proceedings before the Commission.

In the case filed against the union, the complainant alleged that the union improperly refused to process a grievance concerning his discharge. The preliminary ruling letter noted that the Commission has declined to assert jurisdiction in "duty of fair representation" cases arising exclusively out of the processing of grievances arising from the interpretation or application of collective bargaining agreements. Mukilteo School District (Public School Employees of Washington), Decision 1381 (PECB, 1982). Since the Commission does not have jurisdiction to determine or remedy the underlying contract violation in such cases, recourse to litigation in the courts is the appropriate method of addressing such

complaints against a union. In the absence of any allegation that the union had engaged in any other discrimination or misconduct, it was concluded that the complaint did not state a cause of action for proceedings before the Commission.

In the absence of an amended complaint, the complaints must be dismissed on the bases outlined in the preliminary ruling letter.

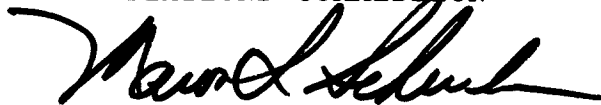
NOW, THEREFORE, it is

ORDERED

1. The complaint charging unfair labor practices filed against the Washington State Council of County and City Employees in Case 8605-U-90-1871 is DISMISSED for failure to state a cause of action.
2. The complaint charging unfair labor practices filed against Snohomish County in Case 8606-U-90-1872 is DISMISSED for failure to state a cause of action.

DATED at Olympia, Washington, this 17th day of January, 1991.

PUBLIC EMPLOYMENT  
RELATIONS COMMISSION



MARVIN L. SCHURKE  
Executive Director

This order may be appealed by filing a petition for review with the Commission pursuant to WAC 391-45-350.