

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

JERRY E. SALTER,)	
)	CASE 9166-U-91-2027
Complainant,)	
)	
vs.)	DECISION 4005 - PECB
)	
C-TRAN,)	
)	PRELIMINARY RULING AND
Respondent.)	PARTIAL DISMISSAL
)	
)	

The complaint charging unfair labor practices in the above-captioned matter was filed with the Public Employment Relations Commission on May 13, 1991. A preliminary ruling letter issued by the Executive Director on January 10, 1992 pointed out defects regarding portions of the allegations and allowed the complainant 14 days in which to file and serve an amended complaint. Nothing further has been heard or received from the complainant.

Paragraph 1 of the statement of facts seeks to raise a "discrimination" claim with respect to a tuition reimbursement policy that is, on its face, limited to management and unrepresented employees of the employer. The preliminary ruling letter pointed out that public employees have the right to organize for the purposes of collective bargaining, but organized employees and their union are not in a position to bargain or dictate the wages, hours or working conditions of persons outside of the bargaining unit represented by the union. Thus, the mere fact of the employer making available to its non-union employees benefits that are not made available to represented employees does not, in and of itself, constitute a basis for a "discrimination" claim. Assuming all of the facts alleged in paragraph 1 of the statement of facts to be true and provable, it does not appear that an unfair labor practice violation could be found on those allegations.

Paragraph 2 of the statement of facts seeks to raise a "discrimination" claim with respect to an "optometrist certificate" required by the employer for employees who work at video screens. Again, as pointed out in the preliminary ruling letter, the mere fact of the employer making available to its "video operator" employees benefits that are not made available to other employees does not, in and of itself, constitute a basis for a "discrimination" claim. Assuming all of the facts alleged in paragraph 2 to be true and provable, it does not appear that an unfair labor practice violation could be found on those allegations.

Paragraph 3 of the statement of facts concerns discipline assessed against three other employees. The complaint does not appear to have been filed on behalf of the union. The preliminary ruling letter pointed out that none of the named individuals has filed an unfair labor practice complaint and that Mr. Salter lacks legal "standing" to file or pursue claims on behalf of other individuals. Thus, the allegations of this paragraph cannot be processed further by the Commission.

Paragraph 4 of the statement of facts alleges favoritism and/or irregularities in the employer's hiring and pay practices. The preliminary ruling letter pointed out that, while a union is in a position to bargain for classifications, pay scales and other practices to standardize the employment relationship among employees within a bargaining unit it represents, an individual employee does not have legal "standing" to challenge such matters. Thus, the allegations of this paragraph cannot be processed further by the Commission.

Paragraph 6 of the statement of facts alleges that employees working on weekend shifts should be given greater compensation than is now paid by the employer. As pointed out in the preliminary ruling letter, while a union is in a position to bargain for pay premiums for weekend and night work by employees in a bargaining

unit which it represents, an individual employee does not have legal "standing" to challenge such matters. Thus, the allegations of this paragraph cannot be processed further by the Commission.

Paragraph 5 of the statement of facts alleges that Mr. Salter was given a shift change in reprisal for his "shop steward" activities in support of a grievance filed on behalf of another employee. Further, the same paragraph alleges statements by employer officials which could reasonably be perceived by employees as an interference with their statutory right to organize and to pursue grievances. As noted in the preliminary ruling letter, these allegations do state a cause of action for unfair labor practice proceedings under Chapter 391-45 WAC.

NOW, THEREFORE, it is

ORDERED

1. Paragraphs 1, 2, 3, 4, and 6 of the complaint filed in this matter are DISMISSED for the reasons indicated above.
2. Paragraph 5 of the complaint shall be assigned, in due course, for further proceedings under Chapter 391-45 WAC.

Dated at Olympia, Washington, the 4th day of March, 1992.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director

Paragraph 1 of this order may be appealed by filing a petition for review with the Commission pursuant to WAC 391-45-350.