STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

AMY L. BOARDMAN, Complainant,	)	CASE 9771-U-92-2221
vs.	)	DECISION 4232 - PECB
CITY OF TACOMA, Respondent.	)	ORDER OF DISMISSAL

On April 22, 1992, Amy L. Boardman filed three complaints charging unfair labor practices with the Public Employment Relations Commission.[1] The complaint docketed as Case 9771-U-92-2221 claimed that the City of Tacoma had committed an unfair labor practice in violation of RCW 41.56.140(3).

The matter came before the Executive Director for initial processing pursuant to WAC 391-45-110,[2] and a preliminary ruling letter issued on May 21, 1992 noted certain problems with the complaint, as filed.

The City of Tacoma is a "public employer" within the meaning and coverage of the Public Employees' Collective Bargaining Act, Chapter 41.56 RCW.

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[1] Complaints docketed as Case 9770-U-92-2220 and as Case 9772-U-92-2222 are the subject of separate orders.

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

The complainant was formerly a police officer employed by the City of Tacoma. It appears that she had pursued a "harassment" complaint against her supervisor, through her employer's "in-house" procedures. It appears that Ms. Boardman was discharged from employment after undergoing a drug test.

The complaint alleges that the employer discharged her in retaliation for her "having previously opposed an unfair practice". The Public Employment Relations Commission regulates relationships under Chapter 41.56 RCW, including regulation of the collective bargaining process through the unfair labor practice provisions of that statute, but the Commission does not have authority to intervene in all disputes between public employers and their employees. Taking the reference to "unfair practice" in the complaint as meaning the pursuit of the harassment claim through the "in-house" procedures, that does not appear to be a matter within the scope of RCW 41.56.140(3). The collective bargaining statute prohibits discrimination by an employer in reprisal for an employee having filed an unfair labor practice complaint under that statute, but that provision does not extend to the pursuit of claims outside of the collective bargaining process.

The preliminary ruling letter noted that pursuit of grievances under a collective bargaining agreement is a protected activity under the law, but that the allegations of the complaint were insufficient to conclude that the "harassment" claim was pursued under the collective bargaining agreement.

The complaint did not appear to state a cause of action, and the complainant was given a period of 14 days following the date of the preliminary ruling letter, in which to file and serve an amended complaint which stated a cause of action, or face dismissal of her complaint. Nothing further has been received from the complainant.

NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices filed in the above-captioned matter is hereby DISMISSED for failure to state a cause of action.

DATED at Olympia, Washington, this 12th day of November, 1992.

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.