

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS, LOCAL 1747,	)	
	)	
Complainant,	)	CASE 10495-U-93-2435
	)	
vs.	)	DECISION 4835 - PECB
	)	
CITY OF KENT,	)	
	)	
Respondent.	)	PARTIAL ORDER OF DISMISSAL
	)	
	)	

---

On June 2, 1993, International Association of Fire Fighters, Local 1747, filed a complaint charging unfair labor practices with the Public Employment Relations Commission, alleging that the City of Kent had committed a number of violations of RCW 41.56.140. The dispute arose during the pendency of a representation proceeding by which the union was seeking certification for a separate bargaining unit of supervisors. The complaint alleged that the employer changed duties of some members of the proposed bargaining unit, and transferred work historically performed by members of the proposed bargaining unit to persons outside the employer's fire department. The union asserted that the employer's actions constituted unlawful interference, domination, discrimination, and refusal to bargain.

A preliminary ruling letter issued on May 17, 1994, pursuant to WAC 391-45-110,<sup>1</sup> found a cause of action to exist with respect to the claim that the employer's alleged actions constituted unlawful "interference" and "discrimination". With respect to the "domina-

---

<sup>1</sup> At that stage in the proceedings, all of the facts alleged in the complaint were assumed to be true and provable. The question at hand was whether, as a matter of law, the complaint stated a claim for relief available through unfair labor practice proceedings before the Commission.

tion" claim, the preliminary ruling letter noted the absence of factual allegations in the complaint that would support such a claim. With respect to the "refusal to bargain" claim, the preliminary ruling letter drew the union's attention to the fact that no obligation to bargain could arise before the union was certified as exclusive bargaining representative of the supervisory employees in the employer's fire department.<sup>2</sup>

The union was given a period of 14 days following the date of the preliminary ruling letter, in which to file and serve an amended complaint with facts supporting allegations of employer conduct constituting "domination" or "refusal to bargain", or face dismissal of those claims. Nothing further has been heard or received from the complainant.

NOW, THEREFORE, it is

ORDERED

1. The allegations that the employer engaged in unlawful "domination" and that it engaged in an unlawful "refusal to bargain" are DISMISSED for failure to state a cause of action.
2. The allegations regarding changes in and removal of work historically performed by members of the supervisory bargaining unit state causes of action for "interference" and "discrimination". The employer shall:

**File and serve its answer to those allegations of the complaint within 21 days following the date of this letter.**

---

<sup>2</sup> Subsequent to the filing of the complaint in this matter, the union was certified as exclusive bargaining representative of the supervisory employees. City of Kent, Decision 4567 (PECB, 1993).

Except for good cause shown, a failure to file an answer within the time specified, or the failure of an answer to specifically deny or explain a fact alleged in the complaint, will be deemed to be an admission that the fact is true as alleged in the complaint, and as a waiver of a hearing as to the facts so admitted. WAC 391-45-210.

An answer filed by a respondent shall:

a. Specifically admit, deny or explain each of the facts alleged in the complaint, except if the respondent is without knowledge of the facts, it shall so state, and that statement will operate as a denial.

b. Specify whether "deferral to arbitration" is requested, and include a copy of the collective bargaining agreement and other grievance documents on which a "deferral" request is based.

c. Assert any other affirmative defenses that are claimed to exist in the matter.

The original answer and three copies shall be filed with the Commission at its Olympia office. A copy of the answer shall be served, on the same date, on the attorney or principal representative of the person or organization that filed the complaint.

ISSUED at Olympia, Washington, this 20th day of September, 1994.

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