

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

DOUGLAS J. BRANLEY,	)	
	)	CASE 11806-U-95-2781
Complainant,	)	
	)	
vs.	)	DECISION 5256 - PECB
	)	
COMMUNITY TRANSIT,	)	
	)	
Respondent.	)	ORDER CLOSING CASE
	)	
	)	

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On May 31, 1995, Douglas J. Branley filed a complaint charging unfair labor practices with the Public Employment Relations Commission, pursuant to Chapter 391-45 WAC. Branley alleged that he was unfairly removed from an apprenticeship program.

The complaint was filed on the form promulgated by the Commission, but was not accompanied by the "clear and concise statement of facts" required by WAC 391-45-050(3) and item 2 of the form. The complainant attached correspondence regarding his removal from an apprenticeship program sponsored by Community Transit and International Association of Machinists District Lodge 160. It appeared that the apprenticeship program is registered with the Washington Department of Labor and Industries.

A preliminary ruling letter issued on August 17, 1995, stated that there were several problems with the complaint, as filed, which prevented a conclusion that a cause of action exists:

1. The complaint named "Chuck Kuykendall" as respondent, apparently in his capacity as chairperson of the Joint Apprenticeship Committee. The complaint form and accompanying documents were, however, subject to the interpretation that Branley was claiming the employer and union were each guilty of some wrongdoing. It did not appear that the employer and union had been served

with documents sufficient to notify them that they were being named as respondents in formal administrative litigation.

2. To the extent that Branley was claiming violation of his rights under the apprenticeship program, the Public Employment Relations Commission does not have jurisdiction to hear or determine such allegations. Any relief for violations of apprenticeship programs would presumably have to come through the Department of Labor and Industries or the courts.

3. To the extent that Branley was claiming discrimination against him on the basis of his age, the Public Employment Relations Commission does not have jurisdiction to hear or determine such allegations. Age discrimination claims are processed by the Washington State Human Rights Commission.

4. To the extent that Branley was alleging violation of the collective bargaining agreement between the employer and union, the Public Employment Relations Commission does not assert jurisdiction to remedy violations of collective bargaining agreements through the unfair labor practice provisions of the statute. City of Walla Walla, Decision 104 (PECB, 1976). Such matters must be pursued through the grievance and arbitration machinery of the contract itself.

5. Even if one were to infer, by a liberal reading of the documents, that Branley was claiming a breach by the union of its duty of fair representation,<sup>1</sup> the Public Employment Relations Commission does not assert jurisdiction over "breach of duty of fair representation" claims arising exclusively out of the processing of contractual grievances. Mukilteo School District (Public School Employees of Washington), Decision 1381 (PECB, 1982).

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<sup>1</sup> This inference is by no means solid. The Executive Director must act on the basis of what is contained within the four corners of the statement of facts, and is not at liberty to fill in gaps or make leaps of logic. The correspondence alludes that the committee allowed "favorites" to complete their apprenticeship, but falls short of alleging that the union was in collusion with the employer, or that the union discriminatorily aligned itself against the complainant.

The complainant was given a period of 14 days following the date of the preliminary ruling, in which to file and serve an amended complaint which stated a cause of action, or face dismissal of the complaint. Nothing further has been received from the complainant.<sup>2</sup>


NOW, THEREFORE, it is

ORDERED

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

DATED at Olympia, Washington, this 11th day of September, 1995.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

  
MARVIN L. SCHURKE, Executive Director

This order will be the final order of the agency unless appealed by filing a petition for review with the Commission pursuant to WAC 391-45-350.

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<sup>2</sup> In a telephone conversation during the 14-day period, the complainant's wife informed the Executive Director that Branley had been reinstated to the apprenticeship program by the Department of Labor and Industries.