

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

KING COUNTY,)	
)	
Employer.)	
-----)	
NIGEL L. KEIFFER,)	CASE 11825-U-95-2785
)	
Complainant,)	DECISION 5296 - PECB
)	
vs.)	
)	
INTERNATIONAL FEDERATION OF)	
PROFESSIONAL AND TECHNICAL)	
ENGINEERS, LOCAL 17,)	ORDER OF DISMISSAL
)	
Respondent.)	
_____)	

On June 9, 1995, Nigel L. Keiffer filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, alleging International Federation of Professional and Technical Engineers, Local 17, interfered with his rights and induced King County to commit an unfair labor practice. King County was not named as a respondent. The dispute concerns the union's representation of an alleged "manager", and actions of that individual at a meeting with bargaining unit employees.

In a preliminary ruling letter issued pursuant to WAC 391-45-110 on July 6, 1995,¹ Keiffer was advised of several problems with his complaint. Those included a lack of clarity as to who called and conducted the meeting at issue, lack of an allegation that the union's representation of the alleged "manager" actually prejudiced

¹ 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.

Keiffer's rights as an employee under Chapter 41.56 RCW, and a failure to comply with the requirements of WAC 391-45-050.²

A response Keiffer filed on July 20, 1995, included a request for a copy of a decision cited in the preliminary ruling letter. The requested material was furnished, and Keiffer was given until September 25, 1995, to file and serve any additional response. Nothing further has been heard or received from the complainant.

The "supervisor in union" issue is addressed first here, because it weighs on the other issues. Different from the situation which prevails in the private sector under the National Labor Relations Act, supervisors are employees within the coverage of Chapter 41.56 RCW. Municipality of Metropolitan Seattle (METRO) v. Department of Labor and Industries, 88 Wn.2d 925 (1977). Jerry Creek is described as a "manager for Facilities Maintenance" who is represented by the same union as his subordinates, and as "not the only manager in King County that is also a member of a union that represents subordinates." While Keiffer expresses a belief that this poses a conflict of interest, the Commission is foreclosed from limiting supervisors' choice of bargaining representatives. International Association of Fire Fighters v. PERC, 45 Wn.2d 686 (Division III, 1986), reversing City of Richland, Decision 1519-A (PECB, 1983). Keiffer's original complaint did not provide any actual examples of prejudice to his rights as a result of Creek being a member of Local 17. His amendatory letter merely restated his contention that a conflict of interest exists, and so remains insufficient to state a cause of action.

² WAC 391-45-050 provides, in pertinent part:

Each complaint shall contain, in separate numbered paragraphs:

...
(3) Clear and concise statements of the facts constituting the alleged unfair labor practices, including times, dates, places, and participants in occurrences.

As amended on July 20, 1995, the complaint alleges that Creek invited staff members to a meeting during a lunch period, for an update on collective bargaining between the employer and union. The fact that Creek is termed a "manager" is not sufficient to form a conclusion that Creek was acting as an agent of the employer in calling that meeting. In fact, another paragraph of the original complaint stated (without any indication that the fact would be controverted) the meeting was not held on the employer's time.

As amended, the complaint alleges that another bargaining unit member informed Keiffer, in the presence of Creek, that Keiffer could not speak at the meeting because he was not a union member. The preliminary ruling letter informed Keiffer that the Commission generally does not regulate internal union affairs, and that the legal import of this allegation depended on who called and ran the meeting. Voice and vote at union meetings is a privilege reserved to union members. Lewis County, Decision 556-A (PECB, 1979). Keiffer's amended complaint did not provide more detail on this issue, and it is not possible to conclude this was the employer's meeting. Absent any basis to conclude that Creek was acting as an agent of the employer, there is no basis to conclude that Creek's actions as a union member at a union meeting were unlawful.

To the extent the complaint alleges violation of the collective bargaining agreement between the employer and union, it fails to state a cause of action. The 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).

The complaint, as amended, contains conclusionary statements that the union discriminates against unidentified agency fee payors by not explaining its obligations or their rights to them. Individuals only have legal standing to file charges to enforce their own rights, so consideration of this allegation must be limited to

Keiffer.³ The complaint lacks detailed facts on which to form a conclusion that the union has violated the law, so this allegation also fails to state a cause of action.

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. It is not possible to conclude from the materials now on file that a cause of action exists; this allegation must be dismissed.

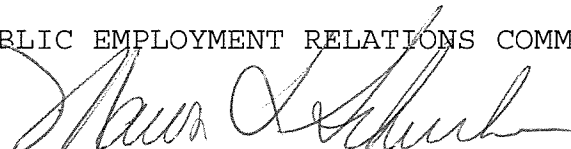
NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices filed in the above-entitled matter is hereby DISMISSED.

DATED at Olympia, Washington, this 6th day of October, 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.

³ C-TRAN, Decision 4005 (PECB, 1992). The amendatory materials made reference to a complaint filed by another individual, but individual complainants must personally submit all material they wish to have considered in determining whether a complaint states a cause of action.