

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

HIGHLINE SCHOOL DISTRICT,	)	
	)	
Employer.	)	
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DIANE MOORE,	)	
	)	
Complainant,	)	CASE 11372-U-94-2664
	)	
vs.	)	DECISION 5287 - EDUC
	)	
HIGHLINE EDUCATION ASSOCIATION,	)	
	)	
Respondent.	)	ORDER OF DISMISSAL
	)	
	)	

On October 11, 1994, Diane Moore filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC.<sup>1</sup> Moore alleged that officials of the Highline Education Association (union) failed to represent her interests, by not forcing the Highline School District (employer) to "fulfill contract provisions" under a collective bargaining agreement between the union and employer. Moore further alleged that one of the union officials informed her, after she resigned on May 9, 1994, that she would "never be able to teach again in any public K-12 school system", which the complainant interpreted as meaning he intended to blacklist her out of teaching.

This controversy involves the termination of the complainant's employment, and union's handling of the situation. Discharges are commonly disputed under the grievance and arbitration machinery of a collective bargaining agreement. The Public Employment Relations

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<sup>1</sup> On that same date, Ms. Moore also filed a complaint charging unfair labor practices against the Highline School District. That matter is being processed separately under Case 11373-U-94-2665.

Commission does not, however, assert jurisdiction to remedy violations of collective bargaining agreements through unfair labor practice provision of the statute. City of Walla Walla, Decision 104 (PECB, 1976). Similarly, the 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).

The allegation regarding a potential "blacklisting" of the complainant was not set forth in a manner sufficient to conclude that either: (1) the union was aligned in interest against Moore; or, (2) the union engaged in discrimination based on Moore's union activity or lack thereof. No other facts were alleged concerning union actions or statements which would corroborate interpretation of the alleged statement as a threat of blacklisting, rather than as an observation on the likely effect of what had transpired.

A preliminary ruling letter issued on August 16, 1995, informed the complainant that certain problems existed with the complaint as filed.<sup>2</sup> Moore 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 this complaint. In a letter filed on August 30, 1995, Moore explained that her receipt of the August 16 letter had been delayed, and she requested additional time to amend the complaint. The due date for a response was extended, but another month has passed with nothing further heard or received from the complainant.

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<sup>2</sup> At that 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.


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 4th 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.