

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

COMMUNITY TRANSIT,)	
)	
Employer,)	CASE 11695-U-95-2753
-----)	
PHIL H. BARBERG,)	
)	
Complainant,)	
)	
vs.)	DECISION 5177 - PECB
)	
AMALGAMATED TRANSIT UNION,)	
LOCAL 1576,)	
)	
Respondent.)	ORDER OF DISMISSAL
)	
_____)	

On April 11, 1995, Phil H. Barberg filed a complaint charging unfair labor practices with the Public Employment Relations Commission, alleging that the Amalgamated Transit Union, Local 1576, failed to assist him in challenging the selection of other applicants for security positions with Community Transit. The allegations of the complaint raise what is known as a "duty of fair representation" claim.

A preliminary ruling letter issued on May 24, 1995,¹ invited Mr. Barberg to detail the relationship between the union's inaction and any invidious discrimination, such as on the basis of race, sex, national origin, or handicap. No amended complaint has been received.

¹ Preliminary rulings are made under WAC 391-45-110. 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 Commission does not assert jurisdiction over "duty of fair representation" claims involving the processing (or lack of processing) of contractual grievances. Mukilteo School District (Public School Employees of Washington), Decision 1381 (PECB, 1982). The Commission only asserts jurisdiction over "duty of fair representation" issues where it appears that a union has acted against an employee it represents because of invidious discrimination, such as on the basis of race, sex, national origin, or handicap. Seattle School District (Seattle Education Association), Decision 4917-A (EDUC, 1995). Mr. Barberg has not amended his complaint to include allegations that such invidious discrimination has occurred.

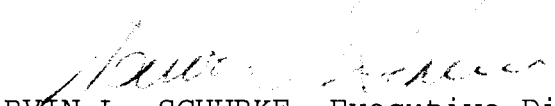
NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices filed in this matter is DISMISSED for failure to state a cause of action.

Issued at Olympia, Washington, this 27th day of June, 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.