

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

PENINSULA SCHOOL DISTRICT,)	
)	
Employer,)	
-----)	
PAMELA R. MURKER,)	CASE 11906-U-95-2801
)	
Complainant,)	DECISION 5290 - PECB
)	
vs.)	
)	
PUBLIC SCHOOL EMPLOYEES OF)	
WASHINGTON,)	
)	
Respondent.)	ORDER OF DISMISSAL
)	
)	

On July 14, Pamela R. Murker filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, alleging that Public School Employees of Washington (PSE) had interfered with her rights and discriminated against her in connection with her employment as a bus driver by Peninsula School District.¹ In a preliminary ruling letter issued on September 6, 1995, pursuant to WAC 391-45-110,² Murker was invited to file an amended complaint in conformity with WAC 391-45-110, using separate, numbered paragraphs to detail the specific events which led her to believe that PSE had interfered with her rights or discriminated against her for filing charges. The only response received from Merkur was filed on September 8, 1995, and

¹ Merkur filed a companion case against the employer which was docketed as Case 11907-U-95-2802, and which is the subject of a separate order of dismissal.

² 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.

consisted only of a decision by an administrative law judge regarding her claim for unemployment compensation benefits after she terminated her employment with the employer.³

As amended by the ESD decision, the complaint indicates that Merkur was formerly employed by the Peninsula School District as a bus driver. It is alleged that Merkur successfully grieved her suspension, at some unspecified time, and that she filed a number of other grievances, about unspecified subjects, during her last year of employment. The complaint states that the employer's reporting of school bus ridership came under investigation by the State Auditor, and became the subject of a criminal investigation, in January of 1994, and it is alleged that the employer suspected Murker of having alerted authorities to falsifications. It is alleged that Merkur received a poor evaluation in April of 1994, was placed on probation for a period, and that the probation was extended without explanation to her. Murker attributes all of these negative events to the auditor's investigation and the criminal investigation. There continue to be several difficulties with the complaint, even as amended by the ESD decision.

The allegations describe events occurring between the 1987-1988 school year and March 3, 1995. The Commission cannot process or remedy any unfair labor practices that occurred more than six months before the complaint was filed. RCW 41.56.160 provides, in pertinent part,

[A] complaint shall not be processed for any unfair labor practice occurring more than six months before the filing of the complaint with the commission.

³ The Employment Security Department of the State of Washington (ESD) administers laws providing for unemployment compensation benefits. The document filed by Merkur is referred to hereinafter as the "ESD decision".

All events described in the complaint that occurred before January 14, 1995, can be considered only as background.

The references to PSE in the complaint seem to relate to grievances Murker may have filed or attempted to file. 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).

The materials provided reveal no cause of action with regard to the allegation that the union interfered with Ms. Murker's rights. Similarly, there are no factual allegations in the complaint supporting a claim that the union discriminated against Murker for filing charges, or committed other unfair labor practices.


NOW, THEREFORE, it is

ORDERED

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

Issued 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.