

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

PAMELA R. MURKER,)	
)	CASE 11907-U-95-2802
Complainant,)	
)	
vs.)	DECISION 5291 - PECB
)	
PENINSULA SCHOOL DISTRICT,)	
)	
Respondent.)	ORDER OF DISMISSAL
)	
)	

On July 14, 1995, Pamela R. Murker filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, alleging that Peninsula School District had interfered and discriminated against her, and engaged in unlawful domination of her exclusive bargaining representative.¹ Specifically, the complaint alleged the employer harassed her during and after an investigation by the offices of the State Auditor and the Pierce County Sheriff, and that the harassment forced her to terminate her employment on March 3, 1995.

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 using separate, numbered paragraphs to detail the employer actions which she believed violated her rights to partici-

¹ Public School Employees of Washington (PSE) was identified as the organization involved. Murker filed a companion case against PSE which was docketed separately as Case 11906-U-2801, 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.

pate in union activities or be represented by her union.³ The only response received from Murker was filed on September 8, 1995, and consisted only of a copy of a decision by an administrative law judge regarding her claim for unemployment compensation benefits after she terminated her employment with the employer.⁴

As amended by the ESD decision, the complaint indicates Murker was formerly employed by the Peninsula School District as a bus driver. It is alleged that Murker 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. It is alleged that the employer suspected Murker of having alerted authorities to falsifications. It is alleged that Murker received a poor evaluation in April of 1994 (after a single evaluation in 1990 followed by years of no evaluations),⁵ 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

³ See WAC 391-45-050.

⁴ 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".

⁵ It is acknowledged that the 1990 evaluation suggested need for improvement.

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.

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

The name "Public Employment Relations Commission" is sometimes interpreted as implying a broader scope of authority than is actually conferred upon the agency by statute. The Commission's jurisdiction is limited to the resolution of collective bargaining disputes between employers, employees, and unions. RCW 41.56.010; RCW 41.58.005, .020(1). The agency does not have authority to resolve each and every dispute that might arise in public employment.⁶ The complaint as amended describes many activities outside the field of labor relations, and Murker has failed to supply an amended statement of facts specifically focused on the employer's violations of her rights to be represented by, or participate in, a union.

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.

⁶ For example, the office of the State Auditor administers a program for protecting "whistleblowers"; unemployment compensation issues are considered separately by the Department of Employment Security; workers' compensation issues are processed by the Department of Labor and Industries and the Board of Industrial Insurance Appeals; claims of discrimination on invidious grounds other than union activity (e.g., race, creed, national origin, or disability) are processed by the Human Rights Commission.

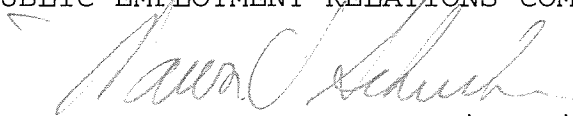
NOW, THEREFORE, it is

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.