

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

MYRON MINER,)	
)	
Complainant,)	CASE 12604-U-96-2999
)	
vs.)	
)	DECISION 5692 - CCOL
SEATTLE COMMUNITY COLLEGE)	
DISTRICT,)	
)	
Respondent.)	ORDER OF DISMISSAL
)	
)	

On July 17, 1996, Myron Miner filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, alleging that Seattle Central Community College had discriminated against him in violation of RCW 28B.52.-073. Specifically, the complaint alleged that the employer had refused to hire Miner into either an office assistant or program assistant position in June of 1996, because he had previously served as president of Local 304 of the Washington Federation of State Employees at the Seattle Community College District.

The complaint was reviewed for the purposes of making a preliminary ruling under WAC 391-45-110.¹ In a deficiency notice issued on September 18, 1996, the parties were informed that no cause of action could be found on the complaint, as filed. It was noted that Chapter 28B.52 RCW only establishes collective bargaining procedures for academic faculty employees of community college districts, and that titles cited in the complaint appeared to suggest

¹ 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.

that Miner was not seeking employment in a position covered by Chapter 28B.52 RCW. It was further noted that Chapter 41.56 RCW did not appear to be applicable to this case,² and that Chapter 41.59 RCW applies only to certificated employees of public school districts. Finally, it was noted that the titles of the positions in question suggested those jobs might be covered by Chapter 41.06 RCW, the state civil service law, which is administered by the Department of Personnel.

The complainant was given a period of 14 days following the date of the deficiency notice in which to file and serve an amended complaint stating a cause of action under Commission jurisdiction, or face dismissal of the complaint.

On September 30, 1996, counsel for the complainant filed a letter which acknowledged receipt of the deficiency notice and requested that the Commission "transfer these charges from your entity to the Department of Personnel for further processing."³ That request is taken to be an acknowledgement that the Public Employment Relations Commission lacks jurisdiction in the matter.

² The deficiency notice further noted bargaining units of employees of state institutions of higher education could come under the coverage of Chapter 41.56 RCW, by exercise of the option set forth in RCW 41.56.201, but that no bargaining unit at the Seattle Community Colleges had exercised such an option.

³ The original documents filed with the Commission on July 17, 1996, were the basis for docketing the above-captioned case, and it would be contrary to agency practice to remove them from the Commission's official files. The Public Employment Relations Commission and the Department of Personnel are entirely separate agencies, and neither is designated as an agent to accept filing or service of papers for the other. While copies of the documents in the Commission's file will be forwarded to the Department of Personnel as a courtesy, all decisions concerning the status and future use of those copies are left entirely to the Department of Personnel.

NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices filed in the above-captioned matter is hereby DISMISSED for lack of jurisdiction.

DATED at Olympia, Washington, this 4th day of October, 1996.

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.