

Sumner School District, Decisions 6364, 6365, 6366, 6367, 6368, and 6369 (PECB, 1998)

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

SUMNER SCHOOL DISTRICT,)	
)	
Employer.)	
-----)	
LINDA MCDONALD,	)	CASE 13731-U-98-3360
	)	DECISION 6364 - PECB
Complainant,)	
)	
CANDY HALVORSON,	)	CASE 13911-U-98-3422
	)	DECISION 6365 - PECB
Complainant,)	
)	
CONNIE MILLER,	)	CASE 13912-U-98-3423
	)	DECISION 6366 - PECB
Complainant,)	
)	
MARCIA RAYOAN,	)	CASE 13913-U-98-3424
	)	DECISION 6367 - PECB
Complainant,)	
)	
DEBBIE BONNER,	)	CASE 13914-U-98-3425
	)	DECISION 6368 - PECB
Complainant,)	
)	
DIANA HEDRICK,	)	CASE 13915-U-98-3426
	)	DECISION 6369 - PECB
Complainant,)	
)	
vs.)	
)	
INTERNATIONAL UNION OF OPER-)	
ATING ENGINEERS, LOCAL 286,	)	ORDER OF DISMISSAL
)	
Respondent.)	
_____)	

On February 20, 1998, Linda McDonald filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, purporting to act on behalf of

several other employees. A deficiency notice was issued on April 2, 1998, under WAC 391-45-110.¹ McDonald filed an amended complaint on April 16, 1998, while Candy Halvorson, Connie Miller, Marcia Rayoan, Debbie Bonner, and Diana Hedrick each filed their own complaints on the same day, using the same statement of facts. A separate case number has been assigned for each complainant employee, as indicated above.

The allegations concerned actions taken by International Union of Operating Engineers, Local 286 (union) and its representatives. Each case processed by the Commission must arise out of an employment relationship, and cases are docketed with reference to the employer's name. While the employer's name will also appear in the captions of correspondence and orders, the employer is not named as a respondent and there is no request for any remedy against the employer in these cases.

These cases were considered together for the purposes of making a ruling under WAC 391-45-110. The filing of individual complaints cured a "lack of standing" problem which had been pointed out to McDonald in the earlier deficiency notice issued in her case. Even with that correction, however, certain problems precluded finding that a cause of action existed, and a deficiency notice was issued to all of the complainants on May 29, 1998. The complainants were given 14 days in which to file and serve amended complaints that

¹ 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.

stated a cause of action, or face dismissal of the complaints. Nothing further has been heard or received from the parties.

The six complainants alleged, generally, that the union and its representatives are "guilty of an ongoing pattern of harassment, coercion, misrepresentation, non-representation, and a concerted effort to cause dissension between union and nonunion employees in the work place", and that they feel they are being singled out for defamation of character. The facts alleged do not set forth any basis for finding unlawful interference, restraint, coercion, or discrimination under RCW 41.56.150.

An alternative reading of these complaints is that these employees are seeking relief for perceived contract violations. It is well-established, however, that the Public Employment Relations Commission does not assert jurisdiction to remedy violations of collective bargaining agreements through the unfair labor practiced provisions of the statute. City of Walla Walla, Decision 104 (PECB, 1976). Such matters must be pursued through the grievance and arbitration machinery of the applicable contract, or must be pursued in the courts.

Another alternative reading of these complaints is that these employees are claiming that the union has somehow breached its duty of fair representation. Closely related to the absence of Commission jurisdiction over contract violations, the Commission does not assert jurisdiction over "breach of duty of fair representation" claims arising exclusively out of processing of contract grievances. Mulilteo School District (Public School Employees of Washington), Decision 1381 (PECB, 1982). Such matters must be pursued in the courts, which can also assert jurisdiction to determine and remedy any underlying contract violations.

NOW, THEREFORE, it is

ORDERED

The complaints charging unfair labor practices filed in the above captioned matters are hereby DISMISSED.

Issued at Olympia, Washington, this 15th day of July, 1998.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

A handwritten signature in cursive script, appearing to read "Marvin L. Schurke".

MARVIN L. SCHURKE, Executive Director

This order will be the final order of the agency unless appealed to the Commission pursuant to WAC 391-45-350.