

Chelan County Fire District 1, Decision 6373 (PECB, 1998)

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

|                                |   |                      |
|--------------------------------|---|----------------------|
| JEFF STEPHENS,                 | ) |                      |
|                                | ) |                      |
| Complainant,                   | ) | CASE 13864-U-98-3401 |
|                                | ) |                      |
| vs.                            | ) | DECISION 6373 - PECB |
|                                | ) |                      |
| CHELAN COUNTY FIRE DISTRICT 1, | ) |                      |
|                                | ) |                      |
| Respondent.                    | ) | ORDER OF DISMISSAL   |
|                                | ) |                      |
|                                | ) |                      |

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On April 23, 1998, Jeff Stephens filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming Chelan County Fire District 1 (employer) as respondent. Specifically, the complaint concerns the termination of Stephens' employment as a fire fighter with the employer.<sup>1</sup>

The complaint in this matter was reviewed by the Executive Director under WAC 391-45-110. The purpose of that review is to comply with RCW 34.05.419(2), which requires administrative agencies to:

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<sup>1</sup> On April 27, 1998, International Association of Fire Fighters, Local 3835, filed a complaint charging unfair labor practices with the Commission, alleging that Jeff Stephens and six other employees were discharged in reprisal for their organizing efforts on behalf of Local 3835. That case was docketed as Case 13877-U-98-3408, and a preliminary ruling has been issued in that case, finding a cause of action to exist. That case is being held in abeyance at the request of the union, while the union is processing a related matter in the courts, and is not affected by this order.

Examine the application, notify the applicant of any obvious errors or omissions, [and] request any additional information the agency wishes to obtain and is permitted by law to require ...

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 the complaint states a claim for relief available through unfair labor practice proceedings before the Public Employment Relations Commission.

A deficiency notice letter was issued under date of May 1, 1998, stating that the complaint in this matter did not state a cause of action, as filed. The complainant was given 14 days to file and serve an amended complaint which stated a cause of action, or face dismissal of this case. Nothing further has been received from the complainant.

#### Union Activity Allegations Insufficiently Detailed

WAC 391-45-050 requires a detailed complaint which is ready for a quasi-judicial hearing process. The Commission and its staff maintain an impartial posture as decision-makers in unfair labor practice proceedings, and the agency does not "investigate" or "prosecute" unfair labor practice charges in a manner that would be familiar to those who practice before the National Labor Relations Board. In this case, the complaint form was not accompanied by any document expressly denominated as a statement of facts under WAC 391-45-050(2), and there was a lack of details as to the times, dates, and participants in occurrences. In the absence of any amended complaint, the processing of this case under WAC 391-45-110 must be done on the basis of the original document.

Nature of Claim Uncertain

Accompanying the Commission-promulgated complaint form filed in this case was a copy of a document headed:

Claim for Damages  
RCW 36.45 / RCW 4.96

That document makes reference to termination "for perceived union organization." Even then, the "Other Unfair Labor Practice" box was marked on the complaint form, rather than the "Employer Discrimination" box which would be appropriate for a claim of anti-union discrimination. A further clue to the complaint's direction is found in the remedy request for "special and general damages" of \$250,000 plus cost and attorney's fees. 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 agency is not a court of general jurisdiction, and does not have the authority to resolve each and every dispute that might arise in public employment. Indeed, the Commission's jurisdiction is limited to the resolution of collective bargaining disputes between employers, employees, and unions. In the case of fire protection districts and their employees, the controlling statute is the Public Employees' Collective Bargaining Act, Chapter 41.56 RCW. The applicable rules are found in Chapter 391-45 RCW. The Commission has no authority with regard to Chapters 36.45 or 4.96 RCW cited in this complaint.<sup>2</sup>

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<sup>2</sup> Chapter 36.45 RCW is titled "Claims Against Counties", while Chapter 4.96 RCW is titled "Action Against Political Subdivisions, Municipal and Quasi-Municipal Corporations".


NOW, THEREFORE, it is

ORDERED

The petition filed in the above-captioned matter is DISMISSED for failing to state a cause of action by the Commission.

DATED at Olympia, Washington, this 20<sup>th</sup> day of July, 1998.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director

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