

STATE OF WASHINGTON
PUBLIC EMPLOYMENT RELATIONS COMMISSION

GORDON W. ROSIER,)	
Complainant,)	CASE NO. 2480-U-79-356
vs.)	DECISION NO. 1122-A EDUC
MUKILTEO SCHOOL DISTRICT NO. 6)	
and)	
MUKILTEO EDUCATION ASSOCIATION,)	DECISION OF COMMISSION
Respondents.)	

Gordon W. Rosier, appeared pro se.

Clifford Gillies, Assistant Superintendent, appeared on behalf of the district.

Symone Scales, Attorney at Law, appeared on behalf of the association.

On December 12, 1979, Gordon W. Rosier filed a complaint charging unfair labor practices with the Public Employment Relations Commission. An amended complaint was filed on August 20, 1980. Mr. Rosier alleged the Mukilteo Education Association and Mukilteo School District, No. 6 had violated RCW 41.59.060, RCW 41.59.100 and RCW 41.59.140 by their actions concerning the collective bargaining agreement between the parties for the period from September 1, 1978 through August 31, 1981. A formal hearing was held on November 19, 1980 before J. T. Cowan, Examiner. The complainant argued that his membership status in the association was unclear and desired to have it clarified so that he is recognized as a non-member. The association argued that as the complainant has presented no evidence as to the unfair labor practice charge, that the complaint be dismissed. The Examiner issued an order dismissing the complaint charging unfair labor practices on March 30, 1981. The complainant has petitioned for review.

POSITIONS OF PARTIES ON REVIEW:

The bases for review given in the complainant's Brief on Review were: 1) his status under the 1978-1981 bargaining unit was not clarified, 2) he was prevented by the Examiner from presenting additional evidence or testimony, and 3) the decision of the Examiner was "arbitrary, capricious, clearly erroneous, and a violation of my rights to procedural due process as specified in law and rule".

Both respondents support the decision of the Examiner.

DISCUSSION:

The facts are as set forth in the Examiner's decision, and are adopted by reference.

The relevant law in this matter is that portion of RCW 41.59.140(1)(c) which reads:

"... nothing in this subsection shall prevent an employer from requiring, as a condition of continued employment, payment of periodic dues and fees uniformly required to an exclusive bargaining representative pursuant to RCW 41.59.100.",

and that portion of RCW 41.59.100 which reads:

"41.59.100 Union security provisions--Scope--Agency shop provision, collection of dues or fees. A collective bargaining agreement may include union security provisions including an agency shop, but not a union or closed shop. If an agency shop provision is agreed to, the employer shall enforce it by deducting from the salary payment to members of the bargaining unit the dues required of membership in the bargaining representative, or, for nonmembers thereof, a fee equivalent to such dues. ..."

The complainant has raised an issue of religious objection to union security payments in a separate proceeding, Case No. 1974-D-79-16, which has been held in abeyance pending the disposition of the instant case. In this case complainant questions his coverage under the union security provisions of the collective bargaining agreement.

The collective bargaining agreement is in evidence. The part of the agreement that specifically addresses the complainant's situation is Article III, Section 4, paragraph 8:

"In the event that any teacher fails to authorize dues deductions within the deadline provided above ..., the District agrees to deduct from the salary of such teacher a representation fee in an amount equal to membership dues (at the rate of 1/12 of such annual dues for each whole month the teacher is not a member of the Association...)"

The Commission views the status of the complainant as being quite clearly that of a non-member. As a non-member, the district deducts a representation fee in an amount equal to membership dues from his salary each month. There is no evidence that the union security provision or its implementation are in violation of the statute.

Now that the contract coverage question has been resolved in favor of coverage, processing of the complainant's religious freedom of non-association claims will be resumed and carried through to their conclusion.

NOW, THEREFORE, It is

ORDERED

The Findings of Fact, Conclusions of Law, and Order of the Examiner are affirmed.

DATED this 17th of July, 1981.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

Jane R. Wilkinson

JANE R. WILKINSON, CHAIRMAN

Robert J. Williams

ROBERT J. WILLIAMS, COMMISSIONER

Mark C. Endresen

MARK C. ENDRESEN, COMMISSIONER