

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

GENE MINETTI,	)	
	)	
Complainant,	)	CASE 7699-U-88-1625
	)	
vs.	)	DECISION 3616-A - PECB
	)	
INTERNATIONAL LONGSHOREMEN'S AND	)	
WAREHOUSEMEN'S UNION, LOCAL 9,	)	
	)	
Respondent.	)	ORDER OF DISMISSAL
	)	
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GENE MINETTI,	)	CASE 7700-U-88-1626
	)	
Complainant,	)	DECISION 3617-A - PECB
	)	
vs.	)	
	)	
PORT OF SEATTLE,	)	
	)	
Respondent.	)	ORDER OF DISMISSAL
	)	
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On December 1, 1988, Gene Minetti filed both of the above-captioned complaints charging unfair labor practices with the Public Employment Relations Commission, naming both the Port of Seattle and the International Longshoremen's and Warehousemen's Union, Local 9, as respondents, and making a number of allegations against them.

On April 12, 1989, the Executive Director issued a preliminary ruling letter in both matters pursuant to WAC 391-45-110.<sup>1</sup> Certain

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<sup>1</sup> 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.

allegations were found to state a cause of action for further proceedings, as follows:

Case 7699-U-88-1625. Allegations concerning a refusal by the union, on and after September 8, 1988, to reinstate Mr. Minetti to the dispatch list on the same basis as union members are reinstated to the dispatch list on return from withdrawal; and allegations concerning unlawful manipulation of the hiring process to grant tenure to union adherents.

Case 7700-U-88-1626. Allegations concerning collusion by the employer to grant tenure to union adherents.

The matter was ultimately assigned to hearing before Commission Examiner Jack T. Cowan. During the course of hearing, the respondents questioned Minetti's standing to pursue these unfair labor practice complaints. The Examiner referred the "standing" question back to the Executive Director, who sent a letter to Minetti on June 28, 1990, asking for further clarification. Minetti replied by letter on July 12, 1990. The Executive Director then reconsidered and clarified his preliminary ruling.

The complaint against the union was remanded to the Examiner for further proceedings, limited to the allegation that, on and after September 8, 1988, the union had refused to reinstate Mr. Minetti to the dispatch list on the same basis as union members are reinstated to the dispatch list on return from withdrawal. Pending the outcome of that issue, the Executive Director ordered that other allegations in the case against the employer be held in abeyance, noting:

If Mr. Minetti is successful in establishing that he sought and was unlawfully denied reinstatement to the dispatch list between September 8, 1988 and November 27, 1988, then he will have been among the "applicants for employment" that could have suffered harm by the discriminatory conferral of seniority status that is alleged in both cases. In the

absence of establishing his status as an applicant for employment (i.e., as a potential discriminatee) during that period, the allegations being held in abeyance will be dismissed on the basis that Mr. Minetti lacks standing to pursue them.

Minetti filed an untimely petition for review of the preliminary ruling to the Commission on September 11, 1990. On November 2, 1990, the Commission ruled that his petition was premature, and would not be ripe until the issuance of an order disposing of his substantive rights. It therefore remanded the matter for further proceedings. However, on November 29, 1990, Mr. Minetti filed a motion for relief in Thurston County Superior Court.

On January 16, 1991, Examiner Cowan advised Minetti by letter that the Commission stood ready to process the matter, should Minetti desire to proceed before the Commission. That information was reiterated by the Executive Director in a letter to Minetti dated September 5, 1991. No reply has been received from Mr. Minetti.

On December 1, 1994, Minetti's court actions were dismissed for lack of prosecution by the Thurston County Superior Court, noting that no action of record had been taken in the cases, that a notice of dismissal for lack of prosecution had been mailed not less than 30 days prior to December 1, 1994, and that no good cause had been shown why a dismissal should not be entered in the matters.

The Commission has held these matters open for an extended period, pending his pursuit of rights before the Court. Although he has been invited to proceed before the Commission, no correspondence has been received from Mr. Minetti in that time period, and we have no indication that he has any interest in pursuing these matters. It thus appears that the motion for dismissal on the bases of "lack of standing" should be granted.

NOW, THEREFORE, it is

ORDERED

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

DATED at Olympia, Washington, this 27th day of January, 1995.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

A handwritten signature in cursive script, appearing to read "Marvin L. Schurke", is written over the printed name.

MARVIN L. SCHURKE, Executive Director

This order may be appealed by filing a petition for review with the Commission pursuant to WAC 391-45-350.