

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

DEBORAH SOMMERS,)	
)	
Complainant,)	CASE 10361-U-93-2381
)	
vs.)	DECISION 4557 - PECB
)	
CITY OF SEATTLE,)	
)	
Respondent.)	ORDER OF DISMISSAL
)	
<hr/> CITY OF SEATTLE,)	
)	
Employer)	
- - - - -)	
DEBORAH SOMMERS,)	
)	
Complainant,)	CASE 10359-U-93-2380
)	
vs.)	DECISION 4556 - PECB
)	
INTERNATIONAL FEDERATION OF)	
PROFESSIONAL AND TECHNICAL)	ORDER OF DISMISSAL
ENGINEERS, LOCAL 17,)	
)	
Respondent.)	
<hr/>)	

On March 29, 1993, Deborah Sommers filed two unfair labor practice complaints with the Public Employment Relations Commission. In Case 10360-U-93-2381, Sommers alleged that her former employer, the City of Seattle, had violated RCW 41.56.140. In Case 10359-U-93-2380, she alleged that her former union, International Federation of Professional and Technical Engineers, Local 17, had committed unfair labor practices under RCW 41.56.150.

The statement of facts, which is common to both complaints, describes a history of sexual harassment problems between Sommers and a co-worker at the City of Seattle, dating back to 1987. It appears that Sommers' employment with the City of Seattle ended in 1988, although litigation continued in other forums thereafter.

A preliminary ruling letter was issued on June 16, 1993, under WAC 391-45-110.¹ It was concluded there that, even if the parties were involved in some litigation which related back to the situation which existed in 1987, there did not appear to be any "employment relationship" in existence within the six month period prior to the filing of the complaints. The complaints thus appeared to be untimely under RCW 41.56.160. The preliminary ruling noted that: (1) The complaint did not allege that the employer's termination of Sommers' employment was motivated by anti-union feelings or based on activity protected by Chapter 41.56 RCW; (2) the allegation that the union failed to represent the complainant, because of retaliation or acting in its own defense, was insufficient and unexplained; and (3) the Commission does not assert jurisdiction to remedy violations of collective bargaining agreements,² or over "duty of fair representation claims" arising out of disagreements over the merits of grievances.³ Sommers was allowed 14 days following the date of the preliminary ruling letter in which to file and serve amended complaints, or face dismissal in both cases.⁴

¹ At this stage of the proceedings, all of the facts alleged in the complaint were assumed to be true and provable. The question at hand was whether, as a matter of law, the complaint stated a claim for relief available through unfair labor practice proceedings before the Public Employment Relations Commission.

² City of Walla Walla, Decision 104 (PECB, 1976).

³ Mukilteo School District [Public School Employees of Washington], Decision 1381 (PECB, 1981).

⁴ The nature of the preliminary ruling process precludes basing any decision on a packet of information volunteered by the union on August 16, 1993. Those materials consist of: An affidavit signed by a shop steward in 1989; a September 16, 1988 letter to Sommers from the union; a complaint dated 1990, filed by Sommers against the union and the City of Seattle in the Superior Court for King County; an order of the Superior Court dismissing Local 17 as a defendant in 1990; and the decision of the Superior Court issued on January 6, 1992.

On July 22, 1993, Ms. Sommers was granted an additional 14 days in which to amend her complaint.

On August 9, 1993, Ms. Sommers forwarded a letter which supplied additional information. With respect to the employer's action in her termination, Sommers restated her belief that her discharge was based on her sex and medical disability. Sommers stated that her supervisor often expressed anti-union feelings, but there is no allegation or further information that ties her discharge to anti-union feelings or activity protected by Chapter 41.56 RCW. With respect to the allegations that the union failed to represent her, Sommers alleged that the union's attorney told her that they would not represent her because she had sued the union. Her claim that the union viewed her complaint as a domestic dispute appears to be aimed at the union's alleged failure to investigate or file a grievance on her behalf. The August 9, 1993 letter did nothing to overturn the interpretation that all of the conduct occurred more than six months prior to the filing of the complaint. Thus, the complaint still fails to state a cause of action for unfair labor practice proceedings before the Commission, and it is still barred by the six month statute of limitations.

NOW, THEREFORE, it is

ORDERED

1. CASE 10361-U-93-2381. The complaint charging unfair labor practices filed in the above-captioned matter against the City of Seattle is DISMISSED as untimely and as failing to state a cause of action.
2. CASE 10359-U-93-2380. The complaint charging unfair labor practices filed in the above-captioned matter against International Federation of Professional and Technical Engineers,

Local 17, is DISMISSED as untimely and as failing to state a cause of action.

ISSUED at Olympia, Washington, this 15th day of December, 1993.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

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

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.