

STATE OF WASHINGTON  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

INTERNATIONAL UNION OF OPERATING  
ENGINEERS, LOCAL UNION 280,

Complainant,

vs.

CITY OF PASCO,

Respondent.

CASE NO. 1281-U-77-160

DECISION NO. 504-A-PECB

DECISION ON APPEAL

APPEARANCES:

Claude M. Thompson, Business Manager, for the Complainant.

Cabot Dow, Cabot Dow Associates, for the Respondent.

On October 5, 1978, Examiner Alan R. Krebs issued his findings of fact, conclusions of law and order in this matter, wherein he concluded that the respondent had engaged in violations of RCW 41.56.140. The remedial order included reinstatement of one employee with back pay. On October 19, 1978, the respondent timely filed a notice of appeal together with an objection to opening of a challenged ballot cast by the discharged employee in an election conducted by the Commission in City of Pasco, Case No. 1269-E-77-251. On October 23, 1978, the Executive Director acknowledged filing of the appeal, pointed out defects in the procedure followed by the City, and notified the parties that the opening of the challenged ballot would be withheld pending resolution of the appeal. On October 25, 1978, the Respondent filed a detailed petition for review of the Examiner's order. On November 20, 1978, the complainant filed a letter in support of the Examiner's decision.

The City takes issue with the Examiner's departure from "the scope of the issues as stipulated by the parties", with the inferences drawn by the Examiner concerning anti-union animus, and with the Examiner's order which it characterizes as "vindictive".

This is a quasi-judicial administrative proceeding conducted by the Commission and its Examiner under the authority of RCW 41.56.140 through RCW 41.56.190. The issues are framed by RCW 41.56.140 and not by a submission agreement of the parties. The parties submitted a "Stipulation" of the issue such as might be submitted by parties in grievance arbitration proceedings. No such submission agreement is necessary, nor is it possible for the parties to alter the statutory authority of the Commission under RCW 41.56.160 to prevent

unfair labor practices. Nevertheless, the stipulation which was signed in this case stated the issue broadly in terms of the exercise of rights under RCW 41.56, and Examiner's decision was within the scope of that stipulation as well as the scope of his authority under RCW 41.56 and WAC 391-21-514.


Decisions in discriminatory discharge cases are seldom made on the basis of admissions of record. The record amply supports the inferences drawn by the Examiner from the totality of the employer's conduct. The Examiner's remedial order was consistent with the policies of this Commission as expressed in previous cases and in WAC 391-21-556.

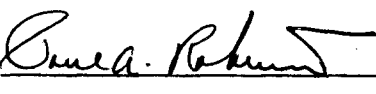
ORDER

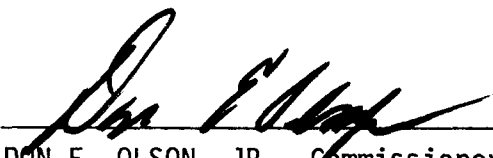
1. The findings of fact, conclusions of law and order of the Examiner are affirmed and adopted as the findings of fact, conclusions of law and order of the Commission.
2. The City of Pasco shall inform the Commission, in writing, within ten (10) days from the date of this order as to what steps it has taken to comply with said order.

DATED this 21 day of January, 1979.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

  
MARY ELLEN KRUG, Chairman

  
PAUL A. ROBERTS, Commissioner

  
DON E. OLSON, JR., Commissioner