

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

MINTA POWERS,)	
)	
Complainant,)	CASE 11600-U-95-2720
)	
vs.)	DECISION 5258 - PECB
)	
WENATCHEE SCHOOL DISTRICT,)	
)	
Respondent.)	PARTIAL ORDER OF DISMISSAL
)	
)	

On February 16, 1995, Minta Powers filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, alleging that the Wenatchee School District had violated RCW 41.56.140 by actions taken in reprisal for her protected union activity. A preliminary ruling letter was issued on August 16, 1995,¹ informing Powers that the complaint was insufficient to state a cause of action. Powers was given a period of 14 days in which to file and serve an amended complaint, or face dismissal of the case. A letter filed by Powers with the Commission on August 28, 1995, does not indicate, on its face, that a copy was served on the employer.²

This controversy appears to arise out of the food service operations of the Wenatchee School District. Anita Dew and Dennis Isaacson were identified in the original complaint as supervisors

¹ At this 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.

² WAC 391-08-120 requires a party that files any paper with the Commission to simultaneously send a copy of the paper to each of the other parties to the proceeding.

acting in the interest of the employer. The complainant alleged that certain actions and words of the employer officials were "unfair", in a generic sense. The preliminary ruling letter pointed out that the Commission is without authority to hear or determine such matters, and that further details would be needed under WAC 391-45-050(3).³ The supplementary letter received from Powers indicates "a better understanding of the jurisdiction and scope of the Commission" as a result of the preliminary ruling letter, and does not contain any facts attempting to bring those employer actions and words within the scope of unfair labor practice proceedings under Chapter 41.56 RCW.

The preliminary ruling letter issued in this matter noted that certain statements included in a "documentation" memo attached to the complaint could be the basis for finding an "interference" violation under RCW 41.56.140(1). The supplementary materials supplied by Powers refocus her claims on the allegation that she was "discriminated against and harassed because of ... union activities".⁴

The preliminary ruling letter also noted there was no statement of the relief sought in the original complaint. The supplementary letter indicates that Powers had terminated her employment with the employer and did not want the job back, but she requested that sanctions be imposed on the supervisors involved.

³ The cited rule requires the party filing a complaint charging unfair labor practices to supply a statement of facts which includes: "Clear and concise statements of the facts constituting the alleged unfair labor practices, including times, dates, places and participants in occurrences".

⁴ The supplementary letter includes: "I am almost as frustrated with the representation I received from the union as I am with the School District", but Powers has not filed a complaint against the union.

NOW, THEREFORE, it is

ORDERED

1. The allegation regarding the employer interfered with Powers' protected union activity by discriminating against her in subsequent assignments and "harassing" her state a cause of action for further proceedings. The employer shall:

File and serve its answer to the complaint within 21 days following the date of this letter.

Except for good cause shown, a failure to file an answer within the time specified, or the failure of an answer to specifically deny or explain a fact alleged in the complaint, will be deemed to be an admission that the fact is true as alleged in the complaint, and as a waiver of a hearing as to the facts so admitted. WAC 391-45-210.

An answer filed by a respondent shall:

- a. Specifically admit, deny, or explain each of the facts alleged in the complaint, except if the respondent is without knowledge of the facts, it shall so state, and that statement will operate as a denial.

- b. Specify whether "deferral to arbitration" is requested, and include a copy of the collective bargaining agreement and other grievance documents on which a "deferral" request is based.

- c. Assert any other affirmative defenses that are claimed to exist in the matter.

The original answer and three copies shall be filed with the Commission at its Olympia office. A copy of the answer shall be served, on the same date, on the attorney or principal

representative of the person or organization that filed the complaint.

2. The allegations concerning actions and words of employer officials that may have been "unfair" in a generic sense, but were not related to union activity, are DISMISSED as failing to state a cause of action.

Issued at Olympia, Washington, this 29th day of September, 1995.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director

Paragraph 2 of this order may be appealed by filing a petition for review with the Commission pursuant to WAC 391-45-350.