

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

SPOKANE COUNTY DEPUTY SHERIFF'S ASSOCIATION,)	
)	
Complainant,)	CASE 12105-U-95-2853
)	
vs.)	DECISION 5698-A - PECB
)	
SPOKANE COUNTY,)	
)	ORDER CORRECTING ERROR
Respondent.)	
)	
)	

Stamper, Rubens, Stocker & Smith, by Thomas R. Luciani, Attorney at Law, appeared for the union.

James R. Sweetser, Prosecuting Attorney, by Martin F. Muench, Deputy Prosecuting Attorney, appeared for the employer.

This case comes before the Commission by its own motion, pursuant to WAC 391-45-350, to review a decision issued by Examiner Rex L. Lacy.¹

The Examiner found that the employer committed both a "refusal to bargain" violation under RCW 41.56.140(4) and an "interference" violation under RCW 41.56.140(1). At pages 15-16 of his decision, the Examiner found that an extraordinary remedy of attorney fees was warranted based upon the employer's assertion of frivolous defenses and to make an effective order on interference with the dispute resolution mechanisms of Chapter 41.56 RCW. The basis for an extraordinary remedy was set forth in paragraph 5 of the Examiner's conclusions of law, and the compliance notice attached to the Examiner's decision made reference to the attorney fees, but the extraordinary remedy appears to have been inadvertently omitted

¹ Spokane County, Decision 5698 (PECB, 1996).

from the "Order" portion of the Examiner's decision. The sole purpose for the Commission taking the case under WAC 391-45-350 was to correct that evident error, and our order herein is confined to correcting the Order to include the award of attorney fees.²

NOW, THEREFORE, The following amended order is substituted for the order issued in this matter by Examiner Rex L. Lacy:

ORDER

Spokane County, its officers and agents, shall immediately take the following actions to remedy its unfair labor practices:

1. CEASE AND DESIST from:
 - (A) Refusing to bargain, upon request, concerning proposed shift changes for employees in the bargaining unit.
 - (B) Threatening employees with adverse effects due to the pursuit of bargaining rights and or dispute resolution procedures provided by law.
 - (C) In any other manner, interfering with, restricting or coercing its employees in their exercise of their collective bargaining rights secured by the laws of the State of Washington.

2. TAKE THE FOLLOWING AFFIRMATIVE ACTION to effectuate the purpose and policies of Chapter 41.56 RCW.
 - (A) Restore the 4/10 work schedule for all bargaining unit positions affected by the unilateral changes of work schedule found unlawful in this proceeding.


² Inasmuch as the employer has tendered compliance with the Examiner's order and that compliance includes paying the union's attorney fees, the primary effect of our order is to complete the audit trail for that expenditure. It is not expected that the employer will need to re-post the notice to employees or to re-notify the union or Executive Director of its compliance.

- (B) Make employees affected by the unlawful changes of work schedule whole, by immediate payment of compensation equivalent to four hours at the straight time rate in effect during the week, for each week in which the employee was scheduled for a fifth shift under the 5/8 schedule. The employer shall be entitled to offset amounts paid for overtime for ninth and tenth hours worked on the first through fourth shifts of a week under the 5/8 schedule. Such back pay shall be computed with interest, in accordance with WAC 391-45-410, for each week from the date of the unilateral change to the date on which the 4/10 work schedule is reinstated pursuant to this order.
- (C) Give notice to the Spokane County Deputy Sheriff's Association and provide opportunity for collective bargaining, prior to any future change of work schedules for employees in the bargaining unit represented by that organization.
- (D) If bargaining is requested on any future change of work schedules, bargain in good faith and utilize the procedures of RCW 41.56.440 and .450.
- (E) Reimburse Spokane County Deputy Sheriff's Association for its reasonable attorney fees incurred in the prosecution of this case, upon presentation of a sworn and itemized statement of such costs and fees.
- (F) Post, in conspicuous places on the employer's premises where notices to all employees are usually posted, copies of the notice attached hereto and marked "Appendix". Such notices shall be duly signed by an authorized representative of the above-named respondent, and shall remain posted for 60 days. Reasonable steps shall be taken by the above-named respondent to ensure that such notices are not removed, altered, defaced, or covered by other material.

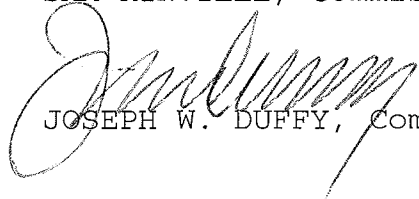
- (G) Notify the above-named complainant, in writing, within 20 days following the date of this order, as to what steps have been taken to comply with this order, and at the same time provide the above-named complainant with a signed copy of the notice required by the preceding paragraph.
- (H) Notify the Executive Director of the Public Employment Relations Commission, in writing, within 30 days following the date of this order, as to what steps have been taken to comply with this order.

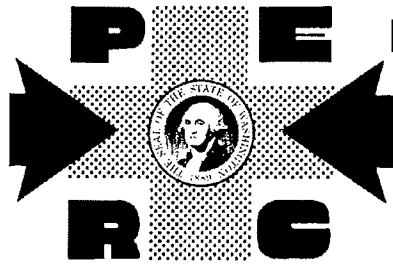
Dated at Olympia, Washington, this 19th day of November, 1996.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


MARILYN GLENN SAYAN, Chairperson


SAM KINVILLE, Commissioner


JOSEPH W. DUFFY, Commissioner



PUBLIC EMPLOYMENT RELATIONS COMMISSION

NOTICE

THE PUBLIC EMPLOYMENT RELATIONS COMMISSION, A STATE AGENCY, HAS HELD A LEGAL PROCEEDING IN WHICH ALL PARTIES WERE ALLOWED TO PRESENT EVIDENCE AND ARGUMENT. THE COMMISSION HAS FOUND THAT WE COMMITTED UNFAIR LABOR PRACTICES IN VIOLATION OF A STATE COLLECTIVE BARGAINING LAW, AND HAS ORDERED US TO POST THIS NOTICE TO OUR EMPLOYEES:

WE WILL reinstate the 4/10 work schedule in effect for sergeants represented by the Spokane County Deputy Sheriff's Association.

WE WILL compensate employees affected by our unlawful unilateral implementation of a 5/8 work schedule, by payments to them equivalent to four hours at the straight time rate for each "fifth" shift worked under the 5/8 schedule, less a reduction for overtime paid for hours that would not have been so compensated under a 4/10 schedule.

WE WILL bargain, upon request, concerning shift work schedules for employees of the bargaining unit, and will resolve any impasse reached in collective bargaining through the procedure established by statute.

WE WILL NOT threaten employees that the pursuit of bargaining rights or the filing of grievances will have a chilling effect upon them or upon the bargaining relationship.

WE WILL NOT, in any other manner, interfere with, restrain, or coerce our employees in the exercise of their collective bargaining rights under the laws of the State of Washington.

WE WILL reimburse the Spokane County Deputy Sheriff's Association for its attorney fees in the prosecution of this case.

DATED: _____

SPOKANE COUNTY

BY: _____
Authorized Representative

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE.

This notice must remain posted for 60 consecutive days from the date of posting, and must not be altered, defaced, or covered by any other material. Questions concerning this notice or compliance with the order issued by the Commission may be directed to the Public Employment Relations Commission, 603 Evergreen Plaza Building, P. O. Box 40919, Olympia, Washington 98504-0919. Telephone: (360) 753-3444.