

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

TEAMSTERS LOCAL 760,

Complainant,

vs.

CITY OF UNION GAP,

Respondent.

CASE 22880-U-09-5836

DECISION 10642 – PECB

PRELIMINARY RULING AND
PARTIAL ORDER OF DISMISSAL

On November 30, 2009, Teamsters Local 760 (union) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming the City of Union Gap (employer) as respondent. The complaint was reviewed under WAC 391-45-110,¹ and a deficiency notice issued on December 4, 2009, indicated that it was not possible to conclude that a cause of action existed at that time for some of the allegations of the complaint. The union was given a period of 21 days in which to file and serve an amended complaint or face dismissal of the defective allegations. The union has not filed any further information.

The Unfair Labor Practice Manager dismisses the defective allegations of the complaint for failure to state a cause of action and finds a cause of action for the interference allegations of the complaint. The employer must file and serve its answer within 21 days following the date of this Decision.

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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.

DISCUSSION

The allegations of the complaint concern employer interference with employee rights and discrimination in violation of RCW 41.56.140(1), and employer discrimination for filing charges in violation of RCW 41.56.140(3), by threats of reprisal or force or promises of benefit made to Sylvia Sanchez (Sanchez) concerning a grievance filed on her behalf.

The allegations of the complaint concerning interference state a cause of action under WAC 391-45-110(2) for further unfair labor practice proceedings before the Commission. The deficiency notice pointed out that the allegations of the complaint concerning discrimination and discrimination for filing charges are defective.

It is an unfair labor practice in violation of RCW 41.56.140(1) for employers to discriminate against employees by depriving them of ascertainable rights, benefits, or status in reprisal for union activities protected by Chapter 41.56 RCW. The complaint does not indicate that Sanchez was laid off in reprisal for union activities. Further, although the complaint states a cause of action concerning the employer's alleged threat to terminate Sanchez' employment, the complaint indicates that the employer has not yet done so.

It is an unfair labor practice in violation of RCW 41.56.140(3) for employers to discriminate against employees by depriving them of ascertainable rights, benefits, or status for filing unfair labor practice complaints with the Commission or testifying before the Commission. The provisions of RCW 41.56.140(3) do not apply to the filing of grievances, and the complaint does not indicate that Sanchez has previously filed an unfair labor practice complaint or testified before the Commission.

NOW, THEREFORE, it is

ORDERED

1. Assuming all of the facts alleged to be true and provable, the interference allegations of the complaint state a cause of action, summarized as follows:

Employer interference with employee rights in violation of RCW 41.56.140(1), by threats of reprisal or force or promises of benefit made to Sylvia Sanchez concerning a grievance filed on her behalf.

The interference allegations of the complaint will be the subject of further proceedings under Chapter 391-45 WAC.

The City of Union Gap shall:

File and serve its answer to the allegations listed in paragraph 1 of this Order, within 21 days following the date of this Order.

An answer shall:

- a. Specifically admit, deny or explain each fact alleged in the complaint, except if a respondent states it is without knowledge of the fact, that statement will operate as a denial; and
- b. Assert any affirmative defenses that are claimed to exist in the matter.

The answer shall be filed with the Commission at its Olympia office. A copy of the answer shall be served on the attorney or principal representative of the person or organization that filed the complaint. Service shall be completed no later than the day of filing. Except for good cause shown, a failure to file an answer within the time specified, or the failure to file 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.

2. The allegations of the complaint concerning employer discrimination in violation of RCW 41.56.140(1), and discrimination for filing charges in violation of RCW 41.56.140(3), are DISMISSED for failures to state causes of action.

ISSUED at Olympia, Washington, this 11th day of January, 2010.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



DAVID I. GEDROSE, Unfair Labor Practice Manager

Paragraph 2 of this order will be the final order of the agency on any defective allegations, unless a notice of appeal is filed with the Commission under WAC 391-45-350.