

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

UNIVERSITY OF WASHINGTON,

Employer.

SUSAN HEBEL,

Complainant,

vs.

WASHINGTON FEDERATION OF  
STATE EMPLOYEES,

Respondent.

CASE 23969-U-11-6128

DECISION 11086 - PSRA

ORDER OF DISMISSAL

On May 11, 2011, Susan Hebel (Hebel) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming the Washington State Federation of State Employees (union) as respondent. The complaint was reviewed under WAC 391-45-110,<sup>1</sup> and a deficiency notice issued on May 13, 2011, indicated that it was not possible to conclude that a cause of action existed at that time. Hebel was given a period of 21 days in which to file and serve an amended complaint or face dismissal of the case.

Hebel has not filed any further information. The Unfair Labor Practice Manager dismisses the complaint for failure to state a cause of action.

DISCUSSION

The allegations of the complaints concern employer interference with employee rights in violation of RCW 41.80.110(1)(a), discrimination in violation of RCW 41.80.110(1)(c) [and if so,

<sup>1</sup> 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.

derivative interference in violation of RCW 41.80.110(1)(a)]; and union interference with employee rights in violation of RCW 41.80.110(2)(a), by employer and union actions toward Hebel.

The deficiency notice pointed out the defects to the complaint.

One, Hebel filed the complaints against the employer and union on one complaint form, with one statement of facts. The complaints were docketed as Case 23968-U-11-6127 (employer) and Case 23969-U-11-6128 (union). Amended complaints should be filed separately, with separate statements of facts.

Two, the complaints appear to be untimely under RCW 41.80.120(1), which states:

Unfair labor practice procedures – Powers and duties of commission.

(1) The commission is empowered and directed to prevent any unfair labor practice and to issue appropriate remedial orders: PROVIDED, That a complaint shall not be processed for any unfair labor practice occurring more than six months before the filing of the complaint with the commission. This power shall not be affected or impaired by any means of adjustment, mediation, or conciliation in labor disputes that have been or may hereafter be established by law.

It is an unfair labor practice in violation of Chapter 41.80 RCW for an employer or union to interfere with an employee's collective bargaining rights by improperly excluding the employee from a bargaining unit. Hebel alleges that the employer and union unlawfully entered into an agreement to exclude Hebel from a bargaining unit represented by the Washington Federation of State Employees (union). Apparently, this occurred sometime in 2001. Information supplied with the statement of facts indicates that the union's most recent communication with Hebel was on August 4, 2007. Based upon these facts, the Commission does not have jurisdiction either in Case 23968-U-11-6127 or Case 23969-U-11-6128. No causes of action exist for the allegations of employer interference in violation of RCW 41.80.110(1)(a), or union interference in violation of RCW 41.80.110(2)(a).

NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices in Case 23969-U-11-6128 is DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 7th day of June, 2011.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

A handwritten signature in black ink, appearing to read "David I. Gedrose". The signature is written in a cursive, flowing style.

DAVID I. GEDROSE, Unfair Labor Practice Manager

This order will be the final order of the agency unless a notice of appeal is filed with the Commission under WAC 391-45-350.



## PUBLIC EMPLOYMENT RELATIONS COMMISSION

112 HENRY STREET NE SUITE 300  
PO BOX 40919  
OLYMPIA, WASHINGTON 98504-0919

MARILYN GLENN SAYAN, CHAIRPERSON  
PAMELA G. BRADBURN, COMMISSIONER  
THOMAS W. McLANE, COMMISSIONER  
CATHLEEN CALLAHAN, EXECUTIVE DIRECTOR

### RECORD OF SERVICE - ISSUED 06/07/2011

The attached document identified as: **DECISION 11086 - PSRA** has been served by the Public Employment Relations Commission by deposit in the United States mail, on the date issued indicated above, postage prepaid, addressed to the parties and their representatives listed in the docket records of the Commission as indicated below:

PUBLIC EMPLOYMENT RELATIONS  
COMMISSION

BY:  ROBBIE DUFFIELD

CASE NUMBER: 23969-U-11-06128 FILED: 05/11/2011 FILED BY: PARTY 2  
DISPUTE: UN MISC ULP  
BAR UNIT: MIXED CLASSES  
DETAILS: -  
COMMENTS:

EMPLOYER: UNIVERSITY OF WASHINGTON  
ATTN: PETER DENIS  
1100 NE CAMPUS PARKWAY  
BOX 354555  
SEATTLE, WA 98105-6207  
Ph1: 206-616-3564 Ph2: 206-841-2872

PARTY 2: SUSAN HEBEL  
ATTN:  
115 124TH ST SE UNIT C-6  
EVERETT, WA 98208  
Ph1: 425-710-0783

PARTY 3: WA FED OF STATE EMPLOYEES  
ATTN: GLADYS BURBANK  
1212 JEFFERSON ST SE STE 300  
OLYMPIA, WA 98501-2332  
Ph1: 800-562-6002 Ph2: 360-352-7603