

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

TERESA KLAMP,

Complainant,

vs.

STATE - CORRECTIONS,

Respondent.

CASE 24226-U-11-6207

DECISION 11193 - PSRA

ORDER OF DISMISSAL

On September 7, 2011, Teresa Klamp (Klamp) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming the Washington State Department of Corrections (employer) as respondent. The complaint was reviewed under WAC 391-45-110,¹ and a deficiency notice issued on September 14, 2011, indicated that it was not possible to conclude that a cause of action existed at that time. Klamp was given a period of 21 days in which to file and serve an amended complaint or face dismissal of the case.

On September 29, 2011, Klamp filed an amended complaint. The Unfair Labor Practice Manager dismisses the amended complaint for failure to state a cause of action.

DISCUSSION

The allegations of the complaint concern employer interference with employee rights in violation of RCW 41.80.110(1)(a); employer discrimination in violation of RCW 41.80.110(1)(c) [and if so, derivative interference in violation of RCW 41.80.110(1)(a)]; employer domination or assistance of a union in violation of RCW 41.80.110(1)(b) [and if so, derivative interference in violation of RCW 41.80.110(1)(a)]; and employer refusal to bargain in violation of RCW 41.80.110(1)(e) [and

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.

if so, derivative interference in violation of RCW 41.80.110(1)(a)], by its actions toward Teresa Klamp (Klamp).

The deficiency notice pointed out the defects to the complaint.

One, the complaint does not include numbered paragraphs as required under WAC 391-45-050 (rule). The itemized method used by Klamp does not conform to the rule.

Two, the complaint does not have a collective bargaining agreement attached.

Three, the complaint does not include a remedy request as required by WAC 391-45-050(3).

Four, the statement of facts does not conform to WAC 391-45-050(2), which requires “Clear and concise statements of the facts constituting the alleged unfair labor practices” Although Klamp provides specific information, the statement of facts is confusing, including its non-chronological presentation. Much of the information concerns events occurring in 2010, all of which are outside the six month statute of limitations. RCW 41.80.120(1). The statement of facts then jumps forward from 2010 to relate claims from March 2011. Klamp states that she was demoted on March 28, 2011. Based upon information gleaned from the statement of facts, it appears that that Klamp is alleging employer interference and discrimination in reprisal for her actions as a shop steward. However, the statement of facts as presented makes it impossible to process this complaint under Chapter 391-45 WAC.

Five, it is an unfair labor practice under RCW 41.80.110(1)(b) for an employer to dominate or assist a union by interfering with internal union affairs or finances or attempting to create, fund, or control a company union. Klamp alleges on the complaint form that the employer has unlawfully interfered with internal union affairs, but does not provide facts supporting that allegation.

Six, Klamp also alleges employer refusal to bargain in violation of RCW 41.80.110(1)(e). Klamp as an individual employee does not have standing to process this claim. Only an employer or exclusive bargaining representative can process a refusal to bargain claim.

Seven, the processing of unfair labor practice complaints of this nature may not be delayed pending the outcome of disciplinary grievance arbitrations.

Amended Complaint

The amended complaint realleges the interference and discrimination claims and withdraws the domination/assistance and refusal to bargain claims. A collective bargaining agreement is attached, and the amended complaint has numbered paragraphs and includes a remedy request. The amended complaint contains a concise *legal* statement of claims for interference and discrimination based upon union activities; however, it does not include a statement of facts supporting the legal claims. To the extent that Klamp may seek to rely on the original statement of facts, the deficiency notice pointed out that the original statement of facts was confusing, possibly untimely, and made it impossible to process the complaint. The omission of any supporting statement of facts in the amended complaint requires dismissal of all claims.

NOW, THEREFORE, it is

ORDERED

The amended complaint charging unfair labor practices in Case 24226-U-11-6207 is DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 3rd day of October, 2011.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



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 10/03/2011

The attached document identified as: **DECISION 11193 - 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: S/ ROBBIE HOFFIELD

CASE NUMBER: 24226-U-11-06207 FILED: 09/07/2011 FILED BY: PARTY 2
DISPUTE: ER MULTIPLE ULP
BAR UNIT: SUPERVISORS
DETAILS: -
COMMENTS:

EMPLOYER: STATE - CORRECTIONS
ATTN: DIANE LEIGH
210 11TH AVE SW STE 331
PO BOX 43113
OLYMPIA, WA 98504-3113
Ph1: 360-725-5154 Ph2: 360-725-5152

REP BY: MICHAEL ROTHMAN
OFFICE OF THE ATTORNEY GENERAL
7141 CLEANWATER DR SW
PO BOX 40145
OLYMPIA, WA 98504-0145
Ph1: 360-664-4167

PARTY 2: TERESA KLAMP
ATTN:
14723 PARKDALE DR KP N
GIG HARBOR, WA 98329
Ph1: 253-884-2911