

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

KEITH DOUGHERTY,

Complainant,

vs.

BELLEVUE SCHOOL DISTRICT,

Respondent.

CASE 24071-U-11-6156

DECISION 11147 - PECB

ORDER OF DISMISSAL

On June 27, 2011, Keith Dougherty (Dougherty) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming the Bellevue School District as respondent. The complaint was reviewed under WAC 391-45-110,¹ and a deficiency notice issued on July 12, 2011, indicated that it was not possible to conclude that a cause of action existed at that time. Dougherty was given a period of 21 days in which to file and serve an amended complaint or face dismissal of the case.

Dougherty 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 complaint concern employer interference, domination or assistance of a union, discrimination, and discrimination for filing charges, in violation of Chapter 41.56 RCW, by actions toward Dougherty.

The deficiency notice pointed out the multiple defects to the complaint.

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.

One, although Dougherty wrote the name and contact information for a legal representative in the space reserved for the authorized signature of the complainant, the complaint is not signed. WAC 391-45-050(4).

Two, WAC 391-45-050(2) (rule) requires complaints to contain "Clear and concise statements of the facts constituting the alleged unfair labor practices, including times, dates, places and participants in occurrences. The statement of facts is not clear and concise: Most of the allegations are not related to union activities; many of the references do not give specific information as required by the rule. The Commission has previously notified Dougherty that its jurisdiction is confined to collective bargaining statutes. *Bellevue School District*, Decision 10868-A (2011).

Three, RCW 41.56.16)(1) provides "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." The complaint was filed on June 27, 2011. The Commission has no jurisdiction to remedy allegations of the complaint occurring prior to December 27, 2010.

Four, Dougherty alleges that he was constructively discharged on October 18, 2010. Any claim related to termination of his employment is untimely.

Five, as a non-employee of the employer, Dougherty has no standing to file this complaint. WAC 391-45-010.

Six, Dougherty alleges unlawful acts by the employer related to a hearing before the Office of Administrative Hearings (OAH) on December 27, 2010, and related to public records requests in 2010 and 2011. The Commission has no jurisdiction over public records requests, but only over requests for information related to collective bargaining. Dougherty has no standing to pursue claims for refusal to provide collective bargaining information. Only a union may pursue such claims.

That the OAH hearing occurred on December 27, 2010, does not make the complaint timely under RCW 41.56.160(1), since the complaint does not state a cause of action. The only claim made in relation to the hearing appears to be alleged discrimination for filing an unfair labor practice complaint. Dougherty alleges that the employer's conduct at the hearing was either uncivil, unethical, or unlawful in retaliation for his filing a previous complaint. The Commission has no jurisdiction to review OAH hearings or remedy the results thereof. Dougherty indicates that the

hearing is being reviewed by outside investigators. As noted in *Bellevue School District*, 10868-A, Dougherty must seek civil remedies for his claims against the employer.

NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices in Case 24071-U-11-6156 is DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 22nd day of August, 2011.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

A handwritten signature in cursive script, appearing to read "David I. Gedrose".

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

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PUBLIC EMPLOYMENT RELATIONS COMMISSION


BY: /s/ JOYE ROLFER

CASE NUMBER: 24071-U-11-06156 FILED: 06/27/2011 FILED BY: PARTY 2
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