

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

SHELLY SWANSON,

Complainant,

vs.

STATE – EMPLOYMENT SECURITY,

Respondent.

CASE 25140-U-12-6441

DECISION 11525 - PSRA

ORDER OF DISMISSAL

On September 18, 2012, Shelly Swanson (Swanson) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming the Washington State Department of Employment Security (employer) as respondent. The complaint was reviewed under WAC 391-45-110,¹ and a deficiency notice issued on September 26, 2012, indicated that it was not possible to conclude that a cause of action existed at that time. Swanson was given a period of 21 days in which to file and serve an amended complaint or face dismissal of the case.

Swanson 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 in violation of RCW 41.80.110(1)(a) and discrimination in violation of RCW 41.80.110(1)(c) [and if so, derivative interference in violation of RCW 41.80.110(1)(a)], by its actions toward Swanson.

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.

The deficiency notice pointed out the defects to the complaint.

First, under WAC 391-45-050(2), unfair labor practice complaints must contain (in numbered paragraphs) “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 does not have numbered paragraphs and is not clear and concise. It also appears to include allegations against the union (Washington Federation of State Employees, hereinafter WFSE). The statement of facts does not give specific information concerning dates of alleged occurrences, and gives “examples” of employer actions, implying there are other unidentified actions.

Second, under RCW 41.80.120(1), complaints must be filed within six months of the alleged violations. The complaint was filed on September 18, 2012. Although background information may be used for context, alleged violations subject to remedy must have occurred on or after March 18, 2012. The statement of facts provides only one date of an occurrence after March 18 (March 22), and information concerning occurrences on that date is incomplete.

Third, the complaint and remedy request include claims concerning violations against WFSE, Local 435, as well as violations committed by the state-wide WFSE organization. Swanson appears to be alleging that the employer has violated her collective bargaining rights as well as those of shop stewards and WFSE, Local 435, along with alleging that the employer and the state-wide WFSE organization have conspired against her. As an individual employee, Swanson has standing to file an unfair labor practice complaint on her own behalf, but has no standing to file a complaint on the behalf of other employees in the bargaining unit, including shop stewards, unless she is doing so as an authorized union representative. However, as noted, Swanson appears to claim that WFSE, Local 345, and the state-wide WFSE organization are in conflict, and that the WFSE organization has committed violations against both Swanson and Local 435. Swanson should clarify who the complainant is, and whether she is claiming violations by both the employer and the WFSE organization.

NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices in Case 25140-U-12-6441 is DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 25th day of October, 2012.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

A handwritten signature in black ink, appearing to read "David I. Gedrose", is written over the printed name below.

DAVID I. GEDROSE, Unfair Labor Practice Manager

This 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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RECORD OF SERVICE - ISSUED 10/25/2012

The attached document identified as: **DECISION 11525 - 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: 25140-U-12-06441 FILED: 09/18/2012 FILED BY: PARTY 2

DISPUTE: ER MULTIPLE ULP

BAR UNIT: ALL EMPLOYEES

DETAILS: -

COMMENTS:

EMPLOYER: STATE - EMPLOYMENT SECURITY

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