

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

|                      |              |                       |
|----------------------|--------------|-----------------------|
| CHELAN COUNTY,       |              |                       |
|                      | Employer.    |                       |
| JEFF GODFREY,        |              |                       |
|                      | Complainant, | CASE 25378-U-13-6495  |
| vs.                  |              | DECISION 11642 - PECB |
| TEAMSTERS LOCAL 760, |              |                       |
|                      | Respondent.  | ORDER OF DISMISSAL    |

On January 7, 2013, Jeff Godfrey (Godfrey) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming Teamsters Local 760 (union) as respondent. The complaint was reviewed under WAC 391-45-110,<sup>1</sup> and a deficiency notice issued on January 14, 2013, indicated that it was not possible to conclude that a cause of action existed at that time. Godfrey was given a period of 21 days in which to file and serve an amended complaint or face dismissal of the case.

Godfrey 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 union interference with employee rights in violation of RCW 41.56.150(1) and union discrimination in violation of Chapter 41.56 RCW, by actions toward union members. The deficiency notice pointed out the defects to the complaint.

<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.

One, Jeff Godfrey (Godfrey) filed the complaint on behalf of himself and four other bargaining unit members. Godfrey has standing to file an unfair labor practice complaint on his own behalf, but does not have standing to file a complaint on behalf of other bargaining unit members.

Two, the remedy request asks for replacement of the union's business representative. That is an internal union matter; the Commission has no jurisdiction over the union's choice of its business representatives.

Three, Godfrey checked the box on the complaint form for "Union Discrimination for Filing Charges with or Giving Testimony before PERC," but crossed out all words after "Union Discrimination." Under Chapter 41.56 RCW, discrimination means the deprivation of an employee's ascertainable rights, benefits, or status in reprisal for union activities. Employers may be charged with discrimination on that basis, but unions have no authority to alter employees' employment rights, benefits, or status. Allegations that a union has requested an employer to unlawfully discriminate against an employee based on union activities may result in a charge of "Union Inducing the Employer to Commit a Violation," under RCW 41.56.150(2); however, Godfrey does not make that claim.

Four, Godfrey also does not allege that the employer has discriminated against him for filing charges or giving testimony before the Commission in violation of RCW 41.56.150(3). The term "charges" refers to unfair labor practice complaints, and there is no indication that Godfrey has previously filed complaints. Godfrey participated in the filing of a decertification petition in Case 25239-E-12-3752, but a review of that case shows there was no hearing and thus no testimony. Rather, Godfrey alleges union reprisals against him on the basis of his involvement in the decertification petition: That claim pertains to an interference claim against the union, but not a discrimination claim.

Five, it would be an unfair labor practice in violation of RCW 41.56.150(1) for the union to interfere with Godfrey's rights under Chapter 41.56 RCW, by failing to represent him, or restrict or exclude him from union activities, based upon the exercise of his collective bargaining rights in the filing of the decertification petition. Godfrey did check the box on the complaint form for

“Union Interference with Employee Rights”; the statement of facts indicates that Godfrey’s allegations extend only to that claim.

However, the facts of the complaint solely involve the union allegedly leaving Godfrey’s name off an e-mail of December 26, 2012, sent to bargaining unit members concerning contract negotiation information and other union business. Although the union may not interfere with Godfrey’s employment or collective bargaining rights in connection with his union activities, the facts presented provide insufficient information to conclude that an unfair labor practice violation could be found for union interference with employee rights in violation of RCW 41.56.150(1).

NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices in Case 25378-U-13-6495 is DISMISSED for failure to state a cause of action.

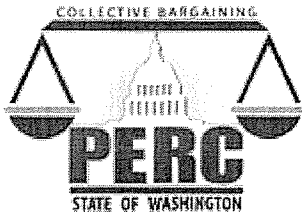
ISSUED at Olympia, Washington, this 12th day of February, 2013.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



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

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  
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### RECORD OF SERVICE - ISSUED 02/12/2013

The attached document identified as: **DECISION 11642 - PECB** 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: 25378-U-13-06495 FILED: 01/07/2013 FILED BY: PARTY 2  
DISPUTE: UN DISCRIMINATE  
BAR UNIT: ALL EMPLOYEES  
DETAILS: Union  
COMMENTS:

EMPLOYER: CHELAN COUNTY  
ATTN: CHELAN CO COMMISSIONERS  
400 DOUGLAS ST STE 201  
WENATCHEE, WA 98801  
Ph1: 509-667-6215

PARTY 2: JEFF GODFREY  
ATTN:  
316 WASHINGTON ST STE 201  
WENATCHEE, WA 98801  
Ph1: 509-667-6605

PARTY 3: TEAMSTERS LOCAL 760  
ATTN: LEONARD CROUCH  
1211 W LINCOLN AVE  
YAKIMA, WA 98902-2535  
Ph1: 509-452-7194