

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

ANJELITA FORNARA,

Complainant,

vs.

OFFICE AND PROFESSIONAL
EMPLOYEES UNION, LOCAL 23,

Respondent.

CASE 26622-U-14-6782

DECISION 12150 – PECB

ORDER OF DISMISSAL

ANJELITA FORNARA,

Complainant,

vs.

THURSTON COUNTY,

Respondent.

CASE 26623-U-14-6783

DECISION 12151 - PECB

ORDER OF DISMISSAL

On July 21, 2014, Anjelita Fornara (Fornara) filed complaints charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming Office and Professional Employees Union, Local 23 (union) and Thurston County (employer) as respondents. The complaint against the union was docketed as Case 26622-U-14-6782 and the complaint against the employer was docketed as Case 26623-U-14-6783. The complaints were reviewed under WAC 391-45-110,¹ and a combined deficiency notice issued on August 6, 2014, indicated that it was not possible to conclude that causes of action existed at that time. Fornara was given a period of 21 days in which to file and serve amended complaints or face dismissal of the cases.

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.

Fornara filed amended complaints. The Unfair Labor Practice Manager dismisses the amended complaints for failures to state causes of action.

DISCUSSION

The allegations of the complaint in Case 26622-U-14-6782 concern union interference with employee rights in violation of RCW 41.56.140(1), by breach of its duty of fair representation regarding Fornara. The allegations of the complaint in Case 26623-U-14-6783 concern employer discrimination (and derivative interference) in violation of RCW 41.56.140(1), by its action against Fornara, in reprisal for union activities protected by Chapter 41.56. RCW. The deficiency notice pointed out the defects to the complaints.

The Public Employment Relations Commission has jurisdiction over collective bargaining statutes in the State of Washington. The Commission does not have jurisdiction over the interpretation of collective bargaining agreements, including seniority issues, or over allegations of human rights violations, such as discrimination based upon gender, race, national origin, or age. The Commission also does not have jurisdiction over employees' *Loudermill* rights. Although unions have a duty of fair representation to their members, the Commission does not have jurisdiction over internal union affairs, including the quality of a union's representation of its members.

Regarding claims against the union, the complaint in Case 26622-U-14-6782 does not provide facts showing that the union's actions were in violation of Chapter 41.56 RCW. Fornara must seek relief through internal union procedures or the courts.

Regarding claims against the employer, the complaint in Case 26623-U-14-6783 does not provide facts showing that the employer's actions were in violation of Chapter 41.56 RCW. Fornara must seek relief through federal or state human rights agencies or the courts.

In addition, the complaints do not conform to the requirements of WAC 391-45-050, which requires clear and concise statements of the facts, in numbered paragraphs, constituting alleged unfair labor practices. RCW 41.56.160(1) requires complaints be filed within six months of the

alleged occurrences. The allegations against the employer and union are combined; the remedy request appears directed solely at the employer. The claims against both the union and employer and the time frames for those claims are not set forth in numbered paragraphs and are not clear and concise.

Amended Complaints

The amended complaints do not cure the substantive defects to the complaints. The amended complaints have multiple defects.

One, the only relevant statute is Chapter 41.56 RCW.

Two, the complaints were filed on July 21, 2014. Under RCW 41.56.160(1), only those allegations occurring on or after January 21, 2014, are subject to remedy by the Commission.

Three, Fornara does not have standing to bring refusal to bargain claims against the employer or union under Chapter 41.56 RCW.

Four, Fornara does not have standing to allege violations of other employees' collective bargaining rights under Chapter 41.56 RCW.

Five, the Commission does not process class action unfair labor practice complaints.

Six, the Commission does not have jurisdiction over the manner in which a union conducts its internal business affairs, including its decisions in collective bargaining negotiations and its selection and retention of officers.

Seven, the Commission does not have jurisdiction over allegations of a union's breach of its duty of fair representation arising out of collective bargaining agreements. Fornara must pursue remedies through internal union procedures or the courts.

Eight, the Commission does not have jurisdiction over the interpretation of collective bargaining agreements.

Nine, the Commission does not have jurisdiction over *Loudermill* hearings.

Ten, the Commission does not have jurisdiction over allegations against employers for discrimination based upon race, gender, national origin, and similar invidious discrimination, or over claims of defamation and slander. Fornara must seek remedies through the civil courts.

Eleven, although the amended statement of facts contains numbered paragraphs, the amended statement of facts is not clear and concise and does not show a causal connection between Fornara's alleged protected union activities and the allegations made against the employer and union for violations of Chapter 41.56 RCW. The amended complaints do not indicate that unfair labor practices could be found.

NOW, THEREFORE, it is

ORDERED

The amended complaints charging unfair labor practices in Cases 26622-U-14-6782 and 26623-U-14-6783 are DISMISSED for failures to state causes of action.

ISSUED at Olympia, Washington, this 28th day of August, 2014.

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

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THOMAS W. McLANE, COMMISSIONER
MARK E. BRENNAN, COMMISSIONER
MIKE SELLARS, EXECUTIVE DIRECTOR

RECORD OF SERVICE - ISSUED 08/28/2014

The attached document identified as: **DECISION 12150 - 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: *[Signature]*
/S/ DIANE THOVSEN

CASE NUMBER: 26622-U-14-06782 FILED: 07/21/2014 FILED BY: PARTY 2
DISPUTE: UN MULTIPLE ULP
BAR UNIT: JAILERS
DETAILS: -
COMMENTS:

EMPLOYER: THURSTON COUNTY
ATTN: THURSTON CO COMMISSIONERS
2000 LAKERIDGE DRIVE SW
OLYMPIA, WA 98502
Ph1: 360-786-5440

REP BY: DEBBIE BROOKMAN
LABOR RELATIONS NEGOTIATOR
THURSTON CO HUMAN RESOURCES
2000 LAKERIDGE DR SW
OLYMPIA, WA 98502-6045
Ph1: 360-867-2486

PARTY 2: ANJELITA FORNARA
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Ph1: 360-359-1862

PARTY 3: OPEIU LOCAL 23
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PUBLIC EMPLOYMENT RELATIONS
COMMISSION


BY:TS/ DIANE THOVSEN

CASE NUMBER: 26623-U-14-06783 FILED: 07/21/2014 FILED BY: PARTY 2
DISPUTE: ER MULTIPLE ULP
BAR UNIT: JAILERS
DETAILS: -
COMMENTS:

EMPLOYER: THURSTON COUNTY
ATTN: THURSTON CO COMMISSIONERS
2000 LAKERIDGE DRIVE SW
OLYMPIA, WA 98502
Ph1: 360-786-5440

PARTY 2: ANJELITA FORNARA
ATTN:
3204 41ST WAY SE
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Ph1: 360-359-1862

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