

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

| | | |
|----------------------|--------------|-----------------------|
| JAWONA ADAMS, | | |
| | Complainant, | CASE 26547-U-14-6775 |
| vs. | | DECISION 12136 - PECB |
| KING COUNTY, | | |
| | Respondent. | ORDER OF DISMISSAL |
| <hr/> | | |
| JAWONA ADAMS, | | |
| | Complainant, | CASE 26548-U-14-6776 |
| vs. | | DECISION 12137 - PECB |
| TEAMSTERS LOCAL 117, | | |
| | Respondent. | ORDER OF DISMISSAL |

On June 24, 2014, Jawona Adams (Adams) filed complaints charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming King County (employer) and Teamsters Local 117 (union) as the respondents. The complaints were reviewed under WAC 391-45-110,¹ and a deficiency notice applicable to both cases and issued on July 11, 2014, indicated that it was not possible to conclude that causes of action existed at that time. Adams 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.

On July 31, 2014, Adams filed amended complaints. The Unfair Labor Practice Manager dismisses the amended complaints for failures to state causes of action.

DISCUSSION

The allegations of the complaints concern employer and union violations of Chapter 41.56 RCW regarding Adams. The deficiency notice pointed out the defects.

The complaints include a combined statement of facts. Adams alleges: “Discrimination and Unfair Labor Practices; Interference/Restraint in exercising guaranteed employment rights under CBA and King County Personnel Policy.”

WAC 391-45-050 requires complaints to include numbered paragraphs, but the statement of facts does not have numbered paragraphs.

The statement of facts makes reference to events beginning on August 30, 2012, and extending to February 28, 2014. The complaints were filed on June 24, 2014. RCW 41.56.160(1) provides for a six month statute of limitations; thus, the timely allegations of the complaints concern events occurring on or after December 24, 2013.

Adams alleges that on February 28, 2014, the employer notified her that it requested the union to extend Adams’s probation “6 additional months thru May 30th 2014 due to unsubstantiated personal conduct.” Adams alleges that the union “failed to protect my employment rights with regards to retroactive probation guaranteed in the CBA and under King County Personnel guidelines.”

The Public Employment Relations Commission has jurisdiction under Chapter 41.56 RCW regarding collective bargaining in the public sector in Washington. The Commission does not have jurisdiction over contractual disputes deriving from collective bargaining agreements or over disputes regarding employers’ personnel policies.

The Commission has jurisdiction only over employees’ claims that employers or unions violated employees’ collective bargaining rights in reprisal for the employees’ union activities, where the

claims are for discrimination, or in association with union activities, where the claims are for interference. Adams does not allege that either the employer or union acted in reprisal for her union activities, or because of her association with union activities.

Claims against the employer

To the extent that Adams alleges that the employer violated the collective bargaining agreement between the employer and the union, or violated the employer's own personnel policies, the Commission does not have jurisdiction. Further, Adams does not have standing to bring a contract violation claim as an individual employee: The collective bargaining agreement is a contract between the employer and the union. Regarding alleged violations of the employer's personnel policies, Adams would need to follow the employer's internal grievance procedures for redress.

Claims against the union

Adams alleges that the union failed to protect her rights under the collective bargaining agreement and the employer's personnel policies. The Commission does not have jurisdiction over a union's duty of fair representation in matters arising out of the interpretation of collective bargaining agreements. While a union does have a duty of fair representation to its members, employees must seek relief for alleged contract violations through internal union procedures or the courts. Regarding personnel policies, the Commission does not have jurisdiction, as noted above.

Adams further alleges:

2 Caucasian women, members of Teamsters 117, reclassified in 2012 to a Business Finance Officer III, and belong to the same Department and Division were given 5 months of retroactive probation. [Emphasis in original.]

Adams implies that she was treated differently than "2 Caucasian women" in a situation similar to hers. The Commission does not have jurisdiction over allegations of employer gender or racial discrimination; Adams must seek relief for those claims through human rights agencies or the courts.

The Commission may have jurisdiction under RCW 41.56.150(1) for claims of union interference concerning invidious discrimination based upon gender or race. However, WAC 391-45-050(2)(rule) requires a clear and concise statement of facts, including times, dates, places, and participants in occurrences. The statement of facts does not provide sufficient information under the rule to indicate that a cause of action exists for union interference based upon Adams's gender or race.

Amended Complaint

Claims against the employer

The amended complaint does not provide information showing that the employer took action against Adams in reprisal for union activities protected by Chapter 41.56 RCW. Adams apparently alleges that she was put on extended probation for requesting a classification review. However, that allegation alone, without supporting information, does not state a cause of action.

Claims against the union

The amended complaint alleges that the union did not respond to Adams's request made on April 9, 2014, for an explanation as to why she was given six months of additional probation, when the other employees were given five months of retroactive probation. However, there is no indication that the union initiated this alleged disparate treatment, but rather that it did not investigate it or respond to Adams's inquiry. This appears to concern the union's duty of fair representation under the collective bargaining agreement. Standing alone and without further information, this allegation does not state a cause of action that is within the Commission's jurisdiction. Adams must seek relief through internal union procedures or the courts.

NOW, THEREFORE, it is

ORDERED

The complaints charging unfair labor practices in Cases 26547-U-14-6775 and 26548-U-14-6776 are DISMISSED for failures to state causes of action.

ISSUED at Olympia, Washington, this 15th 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.