

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

NINA FRENCH, Complainant, vs. WASHINGTON FEDERATION OF STATE EMPLOYEES, Respondent.	CASE 26631-U-14-6785 DECISION 12146 - PSRA ORDER OF DISMISSAL
NINA FRENCH, Complainant, vs. STATE - HEALTH, Respondent.	CASE 26632-U-14-6786 DECISION 12147 - PSRA ORDER OF DISMISSAL

On July 23, 2014, Nina French (French) filed complaints charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming the Washington State Department of Health (employer) and the Washington Federation of State Employees (union) as respondents. The complaint against the union was docketed as Case 26631-U-14-6785, and the complaint against the employer was docketed as Case 26632-U-14-6786. 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 a cause of action existed at that time. French 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 August 25, 2014, French 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 26631-U-14-6785 concern union interference with employee rights in violation of RCW 41.80.110(2)(a), by breach of its duty of fair representation regarding French's termination from employment on February 4, 2014. The allegations of the complaint in Case 26632-U-14-6786 concern employer discrimination in violation of RCW 41.80.110(1)(c) [and derivative interference in violation of RCW 41.80.110(1)(a)], by terminating the employment of French in reprisal for union activities protected by Chapter 41.80 RCW. The deficiency notice pointed out the defects to the complaints.

The Public Employment Relations Commission has jurisdiction over violations of collective bargaining statutes in the State of Washington. The Commission does not have jurisdiction to remedy violations of collective bargaining agreements. Although unions have a duty of fair representation to their members, the Commission does not have jurisdiction over alleged breaches of that duty arising out of the grievance and arbitration provisions of collective bargaining agreements.

Regarding claims against the employer, French does not provide evidence that her termination resulted from union activities. The Commission cannot address allegations of contractual violations, including seniority issues. The complaint in Case 26632-U-14-6786 does not state a cause of action under Chapter 41.80 RCW. French must seek a remedy through the courts.

Regarding claims against the union, French alleges that the union failed to file a grievance on her behalf. The complaint in Case 26631-U-14-6785 does not provide facts showing that the union's alleged failure to file a grievance is actionable under Chapter 41.80 RCW. French must seek a remedy through internal union procedures or the courts.

Amended Complaints

The amended complaints do not cure the defects to the complaints. In addition, the allegations in the amended complaints concern events occurring more than six months prior to the filing of the original complaints and thus are untimely under RCW 41.80.120(1).

NOW, THEREFORE, it is

ORDERED

The amended complaints charging unfair labor practices in Cases 26631-U-14-6785 and 26632-U-14-6786 are DISMISSED for failures to state causes of action.

ISSUED at Olympia, Washington, this 27th day of August, 2014.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

A handwritten signature in black ink, appearing to read "David I. Gedrose", with a long horizontal flourish extending to the right.

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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MIKE SELLARS, EXECUTIVE DIRECTOR

RECORD OF SERVICE - ISSUED 08/27/2014

The attached document identified as: **DECISION 12146 - 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: /S/ DIANE THOVSEN

CASE NUMBER: 26631-U-14-06785 FILED: 07/23/2014 FILED BY: PARTY 2
DISPUTE: UN MULTIPLE ULP
BAR UNIT: PROFESSIONAL
DETAILS: Against Union
COMMENTS:

EMPLOYER: STATE - HEALTH
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PUBLIC EMPLOYMENT RELATIONS
COMMISSION

BY: *[Signature]*
DIANE THOVSEN

CASE NUMBER: 26632-U-14-06786 FILED: 07/23/2014 FILED BY: PARTY 2
DISPUTE: ER MULTIPLE ULP
BAR UNIT: PROFESSIONAL
DETAILS: Against Employer
COMMENTS:

EMPLOYER: STATE - HEALTH
ATTN: GLEN CHRISTOPHERSON
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