

City of Snoqualmie, Decision 12249 (PECB, 2015)

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

CITY OF SNOQUALMIE, Employer.	

CHRIS SYLVAIN, Complainant, vs. SNOQUALMIE POLICE ASSOCIATION, Respondent.	CASE 26819-U-14-6830 DECISION 12249 - PECB
CHRIS SYLVAIN, Complainant, vs. CITY OF SNOQUALMIE, Respondent.	CASE 26820-U-14-6831 DECISION 12250 - PECB PRELIMINARY RULING AND PARTIAL ORDER OF DISMISSAL

On November 3, 2014, Chris Sylvain (complainant) filed complaints charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming the City of Snoqualmie (employer) and the Snoqualmie Police Association (union) as respondents. Because these complaints concerned many of the same events in the same time period, they were consolidated for processing and hearing. The complaints were reviewed under WAC 391-45-110,¹ and a partial deficiency notice issued on November 19, 2014, indicated that it was not possible to conclude that a cause of action existed at that time for some of the allegations of the complaints. The complainant was given a period of 21 days in which to file and serve an amended complaint, or face dismissal of the defective allegations. The complainant filed an amended complaint on December 5, 2014.

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 Unfair Labor Practice Manager reviewed the amended complaints. The allegations concerning violations of the collective bargaining agreement (CBA) are dismissed for failure to state causes of action. The Unfair Labor Practice Manager finds causes of action for union interference, employer interference, and employer discrimination. The employer and union must file and serve their answers to these complaints within 21 days following the date of this Decision.

DISCUSSION

Alleged Violations of the CBA

The amended complaint repeatedly alleges violations of the parties' CBA. The Commission does not assert jurisdiction to remedy violations of collective bargaining agreements through the unfair labor practice provisions of the statute. *City of Walla Walla*, Decision 104 (PECB, 1976). Allegations that the employer and/or union violated a CBA are not matters that the Commission can address. Remedies for contract violations must be sought through the grievance and arbitration machinery within the contract, or through the courts. Thus, the portions of the complaints alleging violations of the CBA by the employer and/or union do not state causes of action with the Public Employment Relations Commission. *Lake Washington School District*, Decision 6312 (EDUC, 1998).

The Commission does not remedy violations of collective bargaining agreements through unfair labor practice proceedings. The allegations of the complaint concerning violations of the CBA in violation of RCW 41.56.140 are dismissed for failing to state a cause of action.

NOW, THEREFORE, it is

ORDERED

1. Assuming all of the facts alleged to be true and provable, the interference allegations of the complaint state a cause of action, summarized as follows:

Union Interference

Since May 7, 2014, union interference with employee rights in violation of RCW 41.56.150(1), by:

- a. Failing and refusing to process grievances or provide union representation to bargaining unit employee Chris Sylvain for reasons that were arbitrary, discriminatory, or in bad faith.
- b. Telling Sylvain that he would have to represent himself in the grievance process.

Employer Interference

Since May 7, 2014, employer interference with employee rights in violation of RCW 41.56.140(1), by:

- a. Directing union representatives not to talk to Sylvain or represent him during investigatory interviews and grievance processing.
- b. Prohibiting Sylvain from contacting his union representatives.
- c. Interfering with Sylvain's ability to exercise his Weingarten rights by refusing to disclose the general allegations or topic of the investigatory interviews in advance of the interviews and interfering with union representation.

Employer Discrimination

Employer discrimination in violation of RCW 41.56.140(3), [and if so, derivative interference in violation of RCW 41.56.140(1),] by placing Sylvain on paid administrative leave beginning on May 7, 2014, in reprisal for filing a grievance and engaging in union activities protected by Chapter 41.56 RCW.

These allegations of the complaint will be the subject of further proceedings under Chapter 391-45 WAC.

The Respondents shall:

File and serve their answers to the allegations listed in paragraph 1 of this Order, within 21 days following the date of this Order.

Answers shall be filed with the Commission at its Olympia office. A copy of each answer shall be served on the attorney or principal representative of the person or organization that filed the complaint. Service shall be completed no later than the day of filing. An answer shall:

- a. Specifically admit, deny or explain each fact alleged in the amended complaint, except if a respondent states it is without knowledge of the fact, that statement will operate as a denial.
- b. Assert any other affirmative defenses that are claimed to exist in the matter.

Except for good cause shown, a failure to file an answer within the time specified, or the failure of an answer to specifically deny or explain a fact alleged in the complaint, will be deemed to be an admission that the fact is true as alleged in the complaint, and as a waiver of a hearing as to the facts so admitted. WAC 391-45-210.

An examiner will be designated to conduct further proceedings in this matter pursuant to Chapter 391-45 WAC. Until an examiner is assigned, all correspondence and motions should be directed to the undersigned.

2. The allegations of the complaint concerning the allegations of the complaint concerning violations of the CBA in violation of RCW 41.56.140 are DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 16th day of January, 2015.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



JESSICA J. BRADLEY, Unfair Labor Practice Manager

Paragraph 2 of this order will be the final order of the agency on any defective allegations, unless a notice of appeal is filed with the Commission under WAC 391-45-350.



PUBLIC EMPLOYMENT RELATIONS COMMISSION

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OLYMPIA, WASHINGTON 98504-0919

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MIKE SELLARS, EXECUTIVE DIRECTOR

RECORD OF SERVICE - ISSUED 01/16/2015

The attached document identified as: **DECISION 12249 - 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:/S/ DEBBIE HOBBS

CASE NUMBER: 26819-U-14-06830 FILED: 11/03/2014 FILED BY: PARTY 2
 DISPUTE: UN FAIR REP
 BAR UNIT: LAW ENFORCE
 DETAILS: Against Union
 COMMENTS:

EMPLOYER: CITY OF SNOQUALMIE
 ATTN: MATT LARSON
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 PO BOX 987
 SNOQUALMIE, WA 98065
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REP BY: SOFIA MABEE
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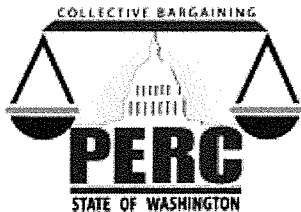
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 COMMISSION

Debbie Hobbs
 BY:/S/ DEBBIE HOBBS

CASE NUMBER: 26820-U-14-06831 FILED: 11/03/2014 FILED BY: PARTY 2
 DISPUTE: ER DISCRIMINATE
 BAR UNIT: LAW ENFORCE
 DETAILS: Against Employer
 COMMENTS:

EMPLOYER: CITY OF SNOQUALMIE
 ATTN: MATT LARSON
 38624 SE RIVER ST
 PO BOX 987
 SNOQUALMIE, WA 98065
 mayor@ci.snoqualmie.wa.us
 Ph1: 425-888-1555 Ph2: 425-281-3333

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