STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

LARRY CHAPMAN, Complainant, vs. JEFFERSON COUNTY PUBLIC UTILITY DISTRICT NO. 1, Respondent.	CASE 26441-U-14-6745 DECISION 12332 - PECB FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

Frank Freed Subit & Thomas LLP, by *Sean M. Phelan*, Attorney at Law, for Larry Chapman.

Karr Tuttle Campbell, by *Tracy M. Miller*, Attorney at Law, for Jefferson County Public Utility District No. 1.

On April 29, 2014, Larry Chapman (complainant) filed an unfair labor practice (ULP) complaint against Jefferson County Public Utility District No. 1 (JPUD). A preliminary ruling was issued on May 6, 2014, finding a cause of action for employer discrimination (and derivative interference) by terminating the employment of Chapman in reprisal for union activities.[1] Examiner Dianne Ramerman held a hearing on August 26, October 22, and December 5, 2014. The parties filed post-hearing briefs on February 17, 2015.

ISSUE

Did the employer discriminate against Chapman in reprisal for engaging in protected union activities?

Based on the arguments, testimony, and evidence presented by the parties, I find that the complainant did not prove by a preponderance of the evidence that the employer discriminated

1 A "derivative" as opposed to "independent" violation of RCW 41.56.140(1) generally occurs when any of the other subsections of RCW 41.56.140 is violated, because a discrimination violation inherently interferes with the rights of public employees to organize and bargain collectively under RCW 41.56.040.

against the complainant for the exercise of protected activities. Chapman was terminated from his lead position during his probationary period because he did not get along with his foreman and because of performance deficiencies.

LEGAL STANDARDS

Discrimination for Union Activity

It is an unfair labor practice for an employer to discriminate against employees for engaging in union activity. RCW 41.56.140(1). An employer unlawfully discriminates when it takes action against an employee in reprisal for the employee's exercise of rights protected by Chapter 41.56 RCW. *Educational Service District 114*, Decision 4361-A (PECB, 1994). The complainant maintains the burden of proof in a discrimination case. To prove discrimination, the complainant must first set forth a *prima facie* case by establishing the following:

1. The employee participated in an activity protected by the collective bargaining statute, or communicated to the employer an intent to do so;

2. The employer deprived the employee of some ascertainable right, benefit, or status; and

3. A causal connection exists between the employee's exercise of a protected activity and the employer's action.

City of Vancouver, Decision 10621-B (PECB, 2012), *aff'd*, *City of Vancouver v. State Public Employment Relations Commission (PERC)*, 180 Wn. App. 333 (2014); *Central Washington University*, Decision 10118-A (PSRA, 2010); *Educational Service District 114*, Decision 4361-A. To prove an employer's motivation for an adverse employment action was discriminatory, the complainant must establish that the employer had knowledge of the employee's union activities. *Metropolitan Park District of Tacoma*, Decision 2272 (PECB, 1986), *aff'd*, Decision 2272-A (PECB, 1986). The complainant may use circumstantial evidence to establish its *prima facie* case because a party does not typically announce a discriminatory motive for its actions. *Clark County*, Decision 9127-A (PECB, 2007). Circumstantial evidence consists of proof of facts or circumstances that according to common experience give rise to a reasonable inference of the truth

of the fact sought to be proved. *See Seattle Public Health Hospital*, Decision 1911-C (PECB, 1984).

When the complainant establishes a *prima facie* case, it creates a rebuttable presumption of discrimination. In response to a complainant's *prima facie* case of discrimination, the employer need only articulate a non-discriminatory reason for its actions. The employer does not bear the burden of proof to establish the reason. *Port of Tacoma*, Decision 4626-A (PECB, 1995). Instead, the burden remains on the complainant to prove by a preponderance of the evidence that the disputed action was in retaliation for the employee's exercise of statutory rights. *Clark County*, Decision 9127-A. The complainant meets this burden by proving either that the employer's reasons were pretextual, or that union animus was a substantial (important or more than influential, but less than determinative) motivating factor behind the employer's actions. *City of Vancouver*, Decision 10621-B, *aff'd,* 180 Wn. App. 333; *Port of Tacoma*, Decision 4626-A.

BACKGROUND

Chapman was hired to work as a Journeyman in Charge (a lead lineman position) for JPUD beginning on February 19, 2013. His position was governed by a collective bargaining agreement (CBA) between JPUD and the International Brotherhood of Electrical Workers, Local 77 (union) with an effective date of February 1, 2013 through April 30, 2016. Under Article VI, Section 6.1.5 SENIORITY of the CBA, all new hires are probationary employees for their first nine months of employment. However, under Article II, Section 2.3.1 SCOPE OF AGREEMENT of the CBA, probationary employees cannot grieve their terminations.

Chapman initially applied for the foreman position, but was not chosen. Instead, Ty Parker was hired for the position, which was also included in the bargaining unit, on February 11, 2013. General Manager Jim Parker, who has ultimate authority over hiring and firing for JPUD, testified that he chose Ty Parker over Chapman because Ty Parker was more qualified and had more experience.[2] Jim Parker also testified that he based his hiring and firing decisions on recommendations from Superintendent Kevin Streett.

---

2 No evidence was presented indicating Ty Parker and Jim Parker are related.

As a lead lineman, Chapman worked with the electrical utility system, performed trouble shooting and responded to power outages. Prior to April 1, 2013, Chapman reported directly to Streett, who had more hands-on supervision of Chapman. On April 1, JPUD took control of electric utility services for Jefferson County from Puget Sound Energy. As a result, starting on April 1, Chapman reported to Ty Parker, who in turn reported to Streett.

Streett and Ty Parker both had issues with Chapman's job performance. Streett testified that in March or April 2013, Ty Parker had performance concerns about Chapman. In or around June 2013, Ty Parker had one conversation with Streett about terminating Chapman because he did not feel Chapman was a good fit for a small public utility district where journeymen were expected to do more basic tasks like reading and disconnecting meters, and changing transformers. Ty Parker testified that he talked to Streett once a month or so about all the journeymen's work, including Chapman's work. Streett testified that "Ty [Parker] believed [Chapman] was lazy and he was not doing us a good job." Ty Parker felt Chapman needed to act as a "lead" by "pull[ing] his weight with the crews" and testified that Chapman did not take initiative to load trucks or trim trees. Jim Parker testified that in or around June 2013, Streett talked to him regarding letting Chapman go, but he advised Streett to give Chapman some time to improve.

Chapman and Ty Parker had a tense relationship. Eric Tharaldsen, the union shop steward, observed tension between the two men, and stated when asked about the source of the tension:

> I would say it was a little of everything. It had to do with I mean, things we were working on, the ["call out"] list, the lack of tools. You know, at the beginning we didn't have a lot to work with so there was a lot of tension there. And so it was a little bit of everything, it wasn't just one thing that I noticed, it was a few things that brought . . . the tension.

Ty Parker testified that "Chapman didn't pull his weight as an employee and . . . he resented me for that." Streett told Jim Parker in or around June 2013 that the two men did not get along because in general "they had a different feeling about how things should be done." Jim Parker testified that he periodically checked back with Streett to see how the relationship was going.

On September 12, 2013, Chapman received a below-standard performance evaluation. Chapman and Streett, along with Human Resources Manager Annette Johnson, sat down and discussed it in Streett's office. Chapman received a "fair" rating in the categories of work quality and supervisory skills. In the category of initiative, he received both a "fair" and a "satisfactory" rating. Streett testified this was because he saw Chapman's performance as somewhere between fair and satisfactory. In the other five categories, which included job knowledge, communication/listening skills, work efficiency, and dependability he received a "satisfactory" rating. Although Chapman testified that Streett told him "you start at fair and move up from there," Streett testified that everyone starts in the satisfactory column, and he viewed anything less than a "satisfactory" rating as unacceptable or not meeting standard. Thus, in three of the eight categories, the employer deemed Chapman's performance below standard. Johnson testified that Streett "talked to [Chapman] about the things that he was concerned with under the fair categories." In the "comments" section regarding work quality, Streett noted that Chapman had "[l]eft cutters at [a] job site," had "[l]eft [an] outrigger pad at [a] job site," and put a "[t]ree limb through [a] windshild [sic]." Finally, Streett testified that he talked to Chapman on many occasions about his deficiencies.

Chapman testified that he and Tharaldsen first raised concerns to Ty Parker "in the month of September" 2013 about the need for a "call out" list that fairly and equitably distributed overtime. Streett testified that he knew Chapman and Tharaldsen "wanted to do it one way, [and] Ty [Parker] wanted to do it a different way." Chapman testified that he raised concerns on behalf of himself and other journeymen. Of the nine employees (journeymen, ground men and a foreman) on the "call out" list, Ty Parker had the most hours of overtime, and Tharaldsen had the second highest amount. Chapman had less and was sixth out of nine.

Specifically, Chapman and Tharaldsen's concerns revolved around a portion of Article VII, Section 7.2 OVERTIME – CALLTIME in the CBA. The section addresses both "on call" duty and the "call out" list. The lineman who is required to be "on call" receives an hour of pay at their straight time rate for each day they are "on call," and all employees receive overtime for all time actually worked. The "on call" period is for a designated week on a revolving roster, and journeymen can trade days and weeks. Linemen who are "on call" and who receive a call that

needs additional assistance are to look to the "call out" list for help. Article VII, Section 7.2.1.1 of the CBA states that "[a]n additional call out list will be kept based on the collaboration of supervisors and employees for the fair and equitable distribution of overtime hours." Article VII, Section 7.2.6 of the CBA states that "[s]upervisors and affected employees will collaboratively develop and administer guidelines for fair and equitable distribution of call out or scheduled overtime." However, despite this requirement in the CBA, no actual list existed. Linemen "on call" would randomly "call out" other employees to come in and assist if needed.

No resolution on the "call out" list issue was reached in September 2013 or the first part of October 2013, so before starting work on October 21, 2013, Chapman went into Streett's office and asked if he, Tharaldsen, Ty Parker, and Streett could have a meeting "[t]o get the overtime thing straightened out, or to try to get it straightened out." Streett told Chapman "sure, not a problem," but the meeting never happened. Rather, minutes later a disagreement arose when Chapman went into the crew room where all the linemen gathered and waited to start work. The disagreement was over whether the "call out" list should be kept based on who was last called or, alternatively, who had the least amount of overtime. Because members could decline calls, Ty Parker favored putting the employee who was last called at the bottom of the list so no "cherry picking" would occur. Conversely, Chapman thought the lineman with the most overtime should be at the bottom of the list. Tharaldsen testified that he also advocated at the meeting that the lineman with the most overtime should be placed at the bottom of the list. None of the other linemen in the room for this meeting expressed a preference. Streett was in attendance as well, but he did not express a preference.

Chapman testified that Ty Parker became angry during the discussion over the "call out" list. Chapman also testified that when the discussion turned to basing trading days for linemen "on call" on the least amount of overtime, Ty Parker got very angry and started "screaming." Chapman testified that he did not raise his voice. Tharaldsen thought the discussion became heated, and he recalled Ty Parker raising his voice, but he did not recall Chapman doing the same. Streett, however, testified that he could not remember the two men having a conversation where either raised their voice. He testified, "I wouldn't call it arguing, we debated . . . ." At hearing, Ty Parker was not asked by either party whether the discussion became heated.

Jim Parker testified that he was not aware of the "call out" issue until Johnson brought it to his attention. Johnson testified that Streett and Payroll Clerk Allie Dean worked internally to devise a plan for how to post the "call out" list. Jim Parker testified that at the time he knew Ty Parker wanted the "call out" list handled differently than other linemen, and he also knew that Chapman and Ty Parker did not get along. Jim Parker did not have an opinion about the best way to apply the list and thought that the union should decide since both options would cost the employer the same amount of money.

On the evening of October 27, 2013, Chapman received a "call out" from Streett, and he declined it because he had been watching football and had several beers that night.

When Chapman showed up for work the next morning (October 28) he learned that all the linemen, except for himself and Tharaldsen, were out on another call. After Streett gave Chapman and Tharaldsen their daily assignment, a dispute arose. Chapman called Ty Parker and suggested he and Tharaldsen go to the job site to pick up equipment they needed to complete their assignment, but Ty Parker told Chapman to wait for him to return to the shop with the needed equipment. After ending the conversation with Ty Parker, Chapman walked into Streett's office to tell him that he and Tharaldsen were going to wait for the crew to return with the equipment they needed. When he entered Streett's office, he overheard Ty Parker on the speakerphone calling Chapman "stupid" for suggesting they go to the job site to get the equipment off the truck.

When Ty Parker came back from the job site 30 to 45 minutes later, he exchanged words with Chapman. Chapman testified that Ty Parker told him, in reference to not accepting a "call out" the night before, that linemen should be required to take 50 percent of "call outs." Chapman testified that he told Ty Parker "well, there's nothing in the contract as far as you want to force me to sit around on the weekend and wait for something to happen. . . . After that I could tell it upset Ty [Parker] . . . . I thought, you know, I might have just pissed him off too much." Ty Parker testified that he did not remember saying anything about 50 percent of the calls, but did think that linemen should "all pull our weight."

The decision to fire Chapman was made on October 28, 2013, because he had been "rude to his supervisor" that day. Streett testified that he recommended again to Jim Parker that the employer terminate Chapman because he "realiz[ed] that Ty [Parker] and [Chapman] weren't going to work well together, they couldn't work together." Streett felt that one of them needed to leave JPUD. Regarding Chapman's performance in a lead position, Streett testified that Chapman lacked initiative because he was always the last to leave the break room in the morning after the crew received their daily assignments. Streett determined that Ty Parker was the better employee because he felt he had a better skill set, was a better leader, took more initiative, was available after hours, had an extraordinarily good work ethic, and worked well with the public. This determination was based on both his and Ty Parker's observations. Streett and Ty Parker testified that they did not explicitly talk about Chapman's termination at this time. Streett then went to Jim Parker and recommended Chapman's termination. Jim Parker agreed that Chapman should be let go.

On October 29, 2013, Chapman was terminated. With Johnson and Tharaldsen in attendance, Streett told Chapman that he was being let go because he was "not a good fit" for JPUD. Streett explained at hearing that this was because of performance issues and the tension between Chapman and Ty Parker.

Jim Parker testified that he "relied heavily on reports from [Streett]" in reaching his decision because he personally observed Chapman's performance "very seldom." Jim Parker further testified that when he was at the shop he could see there was tension between the two men. However, he never attributed that tension to a difference of opinion about the "call out" list. Rather, he felt that the tension may have been due to the two competing for the job of foreman, and then Chapman having to work under Ty Parker while having different thoughts about how things should be done. Jim Parker testified that "we're a small utility, so [when] two people can't get along, it really makes things hard." To Jim Parker, Chapman's termination "had more to do with what was becoming a kind of divisive atmosphere in the utility" and ensuring JPUD operated as efficiently as possible with only several linemen. Ty Parker was not fired because Jim Parker felt he was the better employee.

Around the end of October 2013, the employer and union had a meeting and resolved the "call out" issue by adopting the position Chapman and Tharaldsen advocated. Tharaldsen testified that the employer and the union worked out the issue without "any resistance" from Streett. Ultimately, a "call out" list on which the employee with the least amount of overtime was listed first was posted. However, the testimony varied as to the actual date the meeting occurred and when the list was posted. Tharaldsen believed that the meeting to resolve the "call out" issue occurred after Chapman was terminated and that the list was not yet posted on October 29, 2013. Chapman testified that he did not remember seeing such a list posted before he was terminated. However, Streett testified that the meeting occurred before Chapman was terminated and that "it was agreed to but there was still some fine tuning that had to be done." Similarly, Jim Parker testified that the issue was resolved before Chapman was let go. Johnson thought the list was established at the time Chapman was terminated because Dean and Streett had already resolved how it would be posted.

On November 1, 2013, Chapman e-mailed Jim Parker and JPUD's Board of Commissioners with a list of his concerns regarding his termination. He stated that during his employment he brought up issues with Washington State safety laws and issues with the applicable CBA. He claimed that these were the reasons why he was let go.[3] Chapman claimed that while employed he was required to break safety laws and that he advocated for a fair and equitable "call out" list for the assignment of overtime hours.[4] Chapman wrote that "we were finally able to get a call out list which showed salary and overtime hours. A week later I was let go." Chapman felt that he was singled out because he was trying to do what was right for JPUD and the state. He concluded his e-mail by asking for a thorough investigation.

As a result of this e-mail, the employer had Johnson conduct an investigation. She interviewed six other employees who had worked with Chapman and Ty Parker, including Tharaldsen. From these interviews, she found that:

---

3 The Commission has no jurisdiction over Washington State safety laws.

4 Chapman also accused Ty Parker of falsifying his time sheet. JPUD's Financial Director investigated the matter and found no violation. Similarly, JPUD Commissioners' review of the investigation "found no evidence of fraud or other impropriety." Therefore, I will not consider it when weighing the credibility of Ty Parker's testimony.

> Ty is a good and fair supervisor. There was a lot of "tension" between [Chapman] and Ty, on almost a daily basis. Now that [Chapman] is gone, Ty seems less agitated, therefore has calmed down with the rest of the crew. Ty is fair . . . . He is easily approachable, and is easy to talk to if there is a[n] . . . issue that comes up.

Johnson also found that although he mainly communicates through Ty Parker, Streett was seen as good support to the crew and viewed as approachable.

On or about November 6, 2013, Johnson filled out an Employment Security Department (ESD) Job Separation Statement. It stated that Chapman "was disrespectful to his supervisor, and just wasn't a good fit." She also wrote that "his performance didn't meet expectations," and "the decision was made to let him go, before he became permanite [sic]." An ESD Expert Fact Finding form states:

> We set him down and told him that he was not a good fit . . . . [H]e was kind of rude to his supervisor, but it was not a significant issue. We would have to let him go anyway. . . . The main and only reason he was let go [sic] because he was not a good fit for the position . . . .

Tharaldsen was promoted to the position of foreman on January 2, 2014. Ty Parker resigned in February 2014.

ANALYSIS

Conclusion

Chapman failed to prove that the employer discriminated against him in reprisal for union activities. Although Chapman established a *prima facie* case, he did not prove by a preponderance of the evidence that the employer's reasons for terminating him were pretextual or that the employer was substantially motivated by union animus in making its decision.

I. Chapman Established a *Prima Facie* Case of Discrimination

A. Chapman engaged in protected activity

To establish a *prima facie* case, the complainant had the burden of proof to show that Chapman participated in protected union activity. In this case, advocating for a "call out" system to the

employer in the manner Chapman did qualifies as "protected activity." The CBA specifically addressed the "call out" list and gave the employer and union a role in developing the list. Chapman raised these issues in September and October 2013. He asserted to his supervisor and foreman that "calling out" bargaining unit members based on who was last called as opposed to who had the least amount of overtime was not a "fair and equitable distribution of overtime hours" under the CBA. Chapman's complaints concerned the administration of provisions of the CBA. *See State – Corrections*, Decision 10998-A (PSRA, 2011) (the Commission indicated that had complainant's e-mails concerned the administration of a provision of the CBA that would have been evidence of protected activity). Furthermore, Chapman discussed the issue with his shop steward, Tharaldsen, and raised the issue to the employer on his and others' behalf. Thus, Chapman's conduct intended to "assist" the union in its negotiations with the employer. *See Renton Technical College*, Decision 7441-A (CCOL, 2002) (because the employee's contact with a legislator was made in a manner that was intended to "assist" the union with its negotiations, the employee's communication was protected activity).

Chapman engaged in protected activities on the morning of October 21, 2013, when he asked Streett if labor and management could meet to discuss the "call out" list issue. It was not necessary for Chapman to hold a union office to participate in protected union activity. His advocacy and request clearly placed the issue within the collective bargaining context. Minutes later, Chapman and Tharaldsen were involved in a discussion over the issue in the crew room with Ty Parker in Streett's presence.

The complainant also asserts that on October 28, 2013, Chapman was engaged in protected activities when he and Ty Parker exchanged words over whether linemen should be required to take "call outs" 50 percent of the time. On the one hand, Chapman's comment was simply a retort to a statement he disagreed with. However, because Ty Parker had raised the issue of "cherry picking" "call outs" previously, this exchange was an extension of Chapman's ongoing protected activity.

B. Chapman was deprived of his employment

As part of its *prima facie* case, the complainant must prove that Chapman was deprived of some ascertainable right, benefit, or status. Chapman was terminated from employment. In *City of Brier*, Decision 10013-A (PECB, 2009), the Commission determined that a probationary employee's termination met this element of his *prima facie* case even though the probationary employee could be terminated "at-will" and without cause, as is the case here.

C. A causal connection exists between the exercise of protected activities and the termination

Finally, the complainant must show a causal connection between Chapman's advocacy for a "call out" system and his termination.

Chapman caused the employer to become aware of his union activity in September and October 2013. Chapman raised the disagreement over the "call out" issue with his supervisor and foreman, and on October 21, 2013, Chapman asked Streett to hold a labor management meeting to resolve the disagreement. Streett agreed, proving that the employer recognized the "call out" list issue as a CBA issue. Ty Parker and Streett were also in the crew room on October 21, 2013, when Chapman and Tharaldsen advocated for the "call out" list to be used one way while Ty Parker asserted that it be used in another.

The close timing of Chapman's protected union activity on October 21 and 28, 2013; the decision to terminate him on October 28, 2013; and his termination on October 29, 2013, provides a basis for a causal connection. *Kennewick School District*, Decision 5632-A (PECB, 1996). Therefore, the complainant established a *prima facie* case of discrimination.

II. JPUD Articulated Non-Discriminatory Reasons for the Termination

Since the complainant established a *prima facie* case, the burden of production shifts to the employer who need only articulate a non-discriminatory reason for its actions. The employer presented evidence and testimony that Chapman was terminated during his probationary period in a lead position for his below-standard performance and his poor relationship with Ty Parker. Unsatisfactory performance is a legitimate business reason for termination. Thus, the burden shifts back to the complainant.

III. Chapman Did Not Prove Pretext or Union Animus Was a Substantial Motivating Factor

The complainant's ultimate burden is to show that the employer's reasons were pretextual or that union animus was a substantial motivating factor behind the employer's actions.

A. Two preliminary considerations affect entire analysis

Before addressing the evidence presented, it is necessary to identify two preliminary factors that will influence what evidence will be relevant and what burden the complainant must meet.

1. Chapman's probationary status in a lead position made him easier to terminate

First, I have analyzed the complainant's ultimate burden taking into account that Chapman was fired during his probationary period for a lead position. Under Chapter 41.56 RCW and the parties' CBA, JPUD was not required to use progressive discipline, to develop plans for improvement, or to use a just cause disciplinary standard for probationary employees. *See City of Seattle*, Decision 3066-A (PECB, 1989). Simply put, probationary employees can be fired "at will" and without cause. *City of Brier*, Decision 10013-A. Probationary periods are used by employers to evaluate employees to see if they can competently and efficiently perform the duties of a particular position. Being qualified and selected for a position does not assure that an employee can successfully perform all of the functions of a job. This is not to say probationary employees can be terminated for engaging in protected union activity, but that in the case of such employees, termination may not necessitate as much justification as with a non-probationary employee. *See Valley General Hospital*, Decision 1195-A (PECB, 1981).

In this case, Chapman's position as Journeyman in Charge was a lead position. Individuals holding this position are in charge of a crew and must perform at a very proficient level. *See Kitsap County Fire Protection District No. 7*, Decision 3610 (PECB, 1990). Since JPUD asserted that Chapman, as a probationary employee, was terminated for performance reasons, the complainant had a higher burden to prove that such claims regarding performance were pretextual or motivated by union animus than it would have had if Chapman were past his probationary period.

2. Subordinate bias theory of liability applies

Second, I have analyzed the complainant's ultimate burden taking into account the subordinate bias theory of liability. Because Jim Parker relied on recommendations from Streett and Ty Parker when deciding to terminate Chapman and did not make any "independent choice," JPUD's decision to terminate Chapman must be analyzed under a subordinate bias theory. *See City of Vancouver*, Decision 10621-B, *aff'd,* 180 Wn. App. 333. Under this theory, the complainant must show that the subordinate had union animus that was a substantial factor in the decision resulting in the ULP violation for the employer to be liable. *Id.* When a subordinate with animus acts within his or her delegated powers over other employees, the employer is charged with constructive knowledge of the wrongful conduct to provide an incentive to prevent it. *Id.*

No evidence was presented that Jim Parker held any union animus of his own. At hearing, he testified that he did not consider Chapman's advocacy for a "call out" system when deciding to terminate Chapman. From the evidence the complainant presented, I have no reason to doubt that Jim Parker relied on other factors. In making recommendations about Chapman's employment status, both Streett and Ty Parker acted within the authority delegated to them by the employer, and therefore it is important to review their conduct.[5]

B. Testimony and documentary evidence show JPUD's reasons for terminating Chapman were two-fold: his performance was not acceptable for a probationary employee in a lead position, and there was tension between him and his immediate supervisor, Ty Parker

1. Performance issues were legitimate and pre-date claims of pretext or union animus

Jim Parker received feedback from Streett, and from Ty Parker through Streett, about Chapman's performance. Jim Parker testified that he relied on the recommendations of Streett as the basis for his hiring and firing decisions. Here, in or around June 2013, before the complainant even asserted that Ty Parker harbored union animus toward Chapman, Ty Parker raised performance

---

5 When determining if union animus was a substantial motivating factor in Ty Parker's comments to Streett about Chapman's performance, it makes no difference that he was in the same bargaining unit as Chapman – what is important is whether he was "a biased subordinate, who lack[ed] decision making power, [and] use[d] the formal decision maker as a dupe in a deliberate scheme to trigger a discriminatory employment action." *See City of Vancouver*, Decision 10621-B, *aff'd*, 180 Wn. App. 333, *citing Equal Employment Opportunity Commission v. BCI Coca-Cola Bottling Co. of Los Angeles*, 450 F.3d 476 (10th Cir. 2006) (race discrimination suit where union membership irrelevant).

concerns to Streett, and Streett took those concerns to Jim Parker. On his September 2013 evaluation, which predates the October 21 and 28, 2013 events that the complainant argues show union animus, Chapman received only a "fair" rating in two areas and both a "fair" and "satisfactory" rating in a third area. In the employer's opinion, his evaluation was thus not acceptable overall.[6] Additionally, his evaluation cited three specific incidents where his performance was lacking. Based on the undisputed documentary evidence (and corroborated testimony) of Chapman's performance issues, which arose before the October 2013 protected activities related to the "call out" list, I do not find that the employer's decision was substantially motivated by Chapman's protected activities.

2. Tension between Ty Parker and Chapman did not evidence pretext or union animus

The complainant argues that the reason for the tension was due to Chapman's protected union advocacy for a "call out" system that would place Ty Parker at the bottom of the list, thereby limiting his overtime opportunities. The complainant further asserts that this tension caused Ty Parker to harbor union animus toward Chapman and that this animus was a substantial factor in the decision to terminate him. However, looking at the record as a whole, I do not find that the complainant met its ultimate burden to prove that Ty Parker held union animus toward Chapman.[7] There may have been any one of a number of reasons for the tension, including (1) a difference in personalities, (2) the fact the two men competed for the same foreman position, (3) Ty Parker taking more initiative, or (4) disagreements over matters unrelated to collective bargaining.

I do not find it necessary to make a credibility determination regarding whether Ty Parker raised his voice or started screaming during the morning meeting of October 21, 2013. Looking at the record as a whole, I would not find evidence of union animus even if Ty Parker did both.

---

6 I do not find it necessary to make a credibility determination as to whether Chapman's or Streett's recollection of their conversation on September 12, 2013, is accurate. What is relevant is not whether Chapman started at "fair" or "satisfactory," but where the employer wanted Chapman in his lead position to end up. As a probationary employee he was expected to do his best work.

7 Chapman also made a general assertion that Ty Parker did not like unions. It has been cautioned that "[w]hile hostility to [a] union is a proper and highly significant factor for the [National Labor Relations] Board to consider when assessing whether the employer's motive was discriminatory . . . general hostility toward the union does not itself supply the element of unlawful motive." *Carleton College v. NLRB*, 230 F.3d 1075 (8th Cir. 2000); *GSX Corp. of Missouri v. NLRB*, 918 F.2d 1351 (8th Cir. 1990). Rather, the complainant still needs to prove that Ty Parker acted on union animus.

Discussions on labor relations topics often become heated, and there is enough other evidence to support that the two men did not get along for any one of a number of reasons. Even Tharaldsen testified that the source of the tension was "a little bit of everything."

In Johnson's investigation into Chapman's termination, the employees interviewed stated that they witnessed the tension "on a daily basis." They also stated that during the time immediately after Chapman's termination, even when the "call out" system Ty Parker advocated for was not implemented, he was more relaxed. This indicates that the tension was likely not related to Chapman's advocacy for a "call out" list, but to a variety of other factors. If there was any tension related to a "call out" list, it was not to the degree that would make it a substantial factor in the termination decision.

Streett testified that on October 28, 2013, he recommended again to Jim Parker that the employer terminate Chapman when he "realiz[ed] that Ty [Parker] and [Chapman] weren't going to work well together, they couldn't work together." On that day, prior to the exchange on "call outs," Streett had a conversation with Ty Parker about Chapman's performance, and Chapman testified that he overheard Ty Parker calling him "stupid" in that conversation. However, even the complainant concedes that Ty Parker's comment referred to Chapman's lack of judgment in suggesting that he go out to the job site to get equipment off the truck rather than wait for the crew to return to the shop. The comment was about Chapman's performance and not his protected activity. The phone call only shows the tension between the two men was real. It is not evidence that union animus was the cause of the tension.

C. JPUD's legitimate reasons for terminating Chapman are strongly corroborated by two pieces of evidence: JPUD adopted the "call out" list that Chapman and Tharaldsen advocated for, and JPUD promoted Tharaldsen

1. "Call out" issue's resolution in Chapman's favor weighs against finding discrimination

Further support showing that the employer did not discriminate against Chapman for his exercise of protected activities is the fact that the "call out" issue was resolved in the manner advocated by

Chapman. There is a conflict in the evidence presented as to whether the "call out" issue was resolved and if the list was posted before or after Chapman's termination. However, it is unnecessary for me to make a credibility determination on the matter because, even if the issue was resolved and the list posted after Chapman's termination, (1) testimony at least shows both events were not significantly after his termination, (2) the agreement was negotiated without objection from the employer, and (3) the issue was resolved in Chapman's favor.

Additionally, although Chapman testified that he did not remember seeing a list posted before he was terminated, in his November 1, 2013, list of concerns Chapman wrote that "we were finally able to get a call out list which showed salary and overtime hours. A week later I was let go." Chapman's testimony corroborates an important point: around the time of his termination the union and employer were amicably discussing the "call out" issue. These facts weigh against a finding that the employer had union animus related to Chapman's protected activities.

2. *Shop Steward Tharaldsen's promotion weighs against finding discrimination*

The complainant's evidence of animus is further weakened by JPUD's treatment of Tharaldsen. Tharaldsen, like Chapman, was on probation, raised concerns about the need for a "call out" list in September 2013, and advocated for a change in the "call out" list counter to Ty Parker at the morning meeting on October 21, 2013. Tharaldsen was also the union's shop steward, and along with Chapman, he was the only other employee to decline a "call out" on October 28, 2013. Yet, no evidence was presented of any adverse employment action against Tharaldsen – instead, he was promoted.

Several differences between Chapman and Tharaldsen support the conclusion that Chapman was terminated for personality and performance reasons. First, no evidence was presented showing any tension between Tharaldsen and Ty Parker. Second, Tharaldsen received "satisfactory" ratings on his evaluation in all areas, except for one where he received both a "satisfactory" and "good" rating. Instead of terminating Tharaldsen, two months after terminating Chapman the employer promoted him to foreman.

The most reasonable explanation for the opposite treatment of Tharaldsen and Chapman is because of their performance differences and their ability to get along with Ty Parker. This serves as strong corroboration of testimony that Chapman's protected activities did not play a substantial role in the employer's termination decision, but that it occurred for performance and personality reasons. *See City of Brier*, Decision 10013-A.

D. In light of JPUD's legitimate reasons for terminating Chapman, the complainant's evidence and numerous theories are insufficient to meet its burden of proof that JPUD was substantially motivated by pretext or union animus

1. The events of October 21 and 28, 2013, are not evidence of pretext or union animus

The complainant asserts that Chapman was terminated for his protected activity in events on two days. First, the complainant asserts that Ty Parker's alleged anger and screaming are proof that Chapman was really terminated because he advocated for a certain application of the "call out" list during the October 21, 2013, meeting. However, looking at the situation as a whole, the morning meeting concerned a heated "disagreement" over the general application of the "on call" and "call out" lists. Labor relations are fraught with disagreements and those disagreements, even if they become heated or tense, are not necessarily evidence of union animus. Simply put, disagreement over a topic in the CBA does not amount to union animus.

The complainant argues that Streett witnessed the disagreement in the October 21, 2013, morning meeting and "just stood there" and "did nothing" while Chapman and Ty Parker argued. I am not persuaded looking at the evidence as a whole that silence proves union animus in this context. Although Streett did not speak during the discussion, the complainant asserts that Streett sided with Ty Parker over the "call out" list. Streett testified that he supported the same method of assignment because he was most familiar with that method. Again, disagreeing does not prove union animus.

Chapman was called the evening of October 27, 2013, but declined "call out" work because he was watching football and had several beers. On October 28, 2013, when Chapman went into Streett's office Chapman testified that he overheard Ty Parker on speaker phone calling him

"stupid." He also testified that when Ty Parker returned to the shop he made a comment that Chapman needed to start taking 50 percent of his calls. The complainant claims that these statements show Ty Parker's union animus over the "call out" list. However, as a foreman, Ty Parker had a right to expect those he supervised, especially someone in a lead position, to have good judgment and be available to work even though "call outs" could be declined.

2. Multiple reasons for termination do not evidence pretext or union animus

Chapman argues that the employer's "shifting explanations" for its decision to fire Chapman are evidence of pretext and points to the evaluation, what Chapman was told when he was fired, and the ESD paperwork as proof. However, employers often have multiple reasons for terminating an employee. Here, JPUD did not change its reasons for firing Chapman, but had several reasons for its actions, none of which appear inconsistent.

3. Chapman was given an opportunity to improve

As proof of animus, the complainant asserts that Chapman was not given an opportunity to improve. Ty Parker first went to Streett with concerns about Chapman's performance in March or April 2013. Streett testified that he talked to Chapman on many occasions about his deficiencies. When Streett took his concerns to Jim Parker in or around June 2013, he was told to give Chapman time to improve. Then, Chapman received his September 2013 evaluation in which he was rated below standard overall with several specific performance issues listed in the comments section. At the end of October 2013, Chapman's performance had not improved to the level Streett would have liked to have seen for a lead worker, nor did his relationship with Ty Parker improve. Chapman was terminated about three weeks prior to the end of his probationary period. The employer gave him almost all the time it could as a probationary employee to improve.

4. Employer's limited documentation is not evidence of pretext or union animus

The complainant argues that the employer's actions show an unlawful termination because there was limited documentation of the employer's concerns with Chapman's performance. It may have been a better human resources practice for the employer to fully document its performance concerns, even for a probationary employee. *See City of Brier*, Decision 10013-A. The record,

however, clearly establishes that the employer's concerns with Chapman's ability to get along with Ty Parker and about his performance were real and not pretextual.

5. Chapman not explicitly told his job was in jeopardy is not evidence of pretext or union animus

As proof of discrimination, Chapman asserts that JPUD did not tell him that his job was in jeopardy. I find this argument meritless where a probationary employee in a lead position is concerned. First, Johnson testified that Streett "talked to [Chapman] about the things that he was concerned with under the fair categories." The comments section of Chapman's evaluation also showed that the employer had issues with his performance. Streett testified that he talked to Chapman at the time each of these events occurred, and that "[w]e did talk specifics . . . . These are things that you don't have to reinforce all the time, so they were talked about that these things he had to improve on." This is similar to the rationale the employer used in *Kitsap County Fire Protection District No. 7*, Decision 3610, when the acting lieutenant was asked why he had not informed the employee that he was in jeopardy of not passing his probation: "when you're on probation, an individual needs to perform in a very proficient level, because, again, it is part of the selection process." The fact Chapman was unaware his job was in jeopardy is not evidence of pretext or animus.

Based upon the record, I conclude that the complainant failed to prove by a preponderance of the evidence that the employer discriminated against Chapman and dismiss the complaint.

FINDINGS OF FACT

1. Jefferson Public Utility District No. 1 (JPUD or employer) is a public employer within the meaning of RCW 41.56.030(12).

2. Larry Chapman (complainant) is an employee within the meaning of RCW 41.56.030(11) and began his employment with the JPUD as a Journeyman in Charge (a lead lineman position) on February 19, 2013.

3. The International Brotherhood of Electrical Workers, Local 77 (union) is a bargaining representative within the meaning of RCW 41.56.030(2) and was, at all times relevant to this case, the exclusive bargaining representative for the bargaining unit of which Chapman was a member.

4. The union and employer are parties to a collective bargaining agreement (CBA) effective from February 1, 2013 through April 30, 2016. Pursuant to the CBA, Chapman was subject to a nine month probationary period.

5. Chapman initially applied for the foreman position, but was not chosen. Instead, Ty Parker was hired for the position, which was also included in the bargaining unit, on February 11, 2013. General Manager Jim Parker, who has ultimate authority over hiring and firing for JPUD, testified that he chose Ty Parker over Chapman because Ty Parker was more qualified and had more experience. Jim Parker also testified that he based his hiring and firing decisions on recommendations from Superintendent Kevin Streett.

6. Prior to April 1, 2013, Chapman reported directly to Streett, who had more hands-on supervision of Chapman. On April 1, JPUD took control of electric utility services for Jefferson County from Puget Sound Energy. As a result, starting on April 1, Chapman reported to Ty Parker, who in turn reported to Streett.

7. Streett and Ty Parker both had issues with Chapman's job performance. Streett testified that in March or April 2013, Ty Parker had performance concerns about Chapman. In or around June 2013, Ty Parker had one conversation with Streett about terminating Chapman because he did not feel Chapman was a good fit for a small public utility district where journeymen were expected to do more basic tasks like reading and disconnecting meters, and changing transformers. Ty Parker testified that he talked to Streett once a month or so about all the journeymen's work, including Chapman's work. Streett testified that "Ty [Parker] believed [Chapman] was lazy and he was not doing us a good job." Ty Parker felt Chapman needed to act as a "lead" by "pull[ing] his weight with the crews" and testified that Chapman did not take initiative to load trucks or trim trees. Jim Parker

testified that in or around June 2013, Streett talked to him regarding letting Chapman go, but he advised Streett to give Chapman some time to improve.

8. Chapman and Ty Parker had a tense relationship. Eric Tharaldsen, the union shop steward, observed tension between the two men, and stated when asked about the source of the tension that "I would say it was a little of everything." Ty Parker testified that "Chapman didn't pull his weight as an employee and . . . he resented me for that." Streett told Jim Parker in or around June 2013 that the two men did not get along because in general "they had a different feeling about how things should be done." Jim Parker testified that he periodically checked back with Streett to see how the relationship was going.

9. On September 12, 2013, Chapman received a below-standard performance evaluation. Chapman and Streett, along with Human Resources Manager Annette Johnson, sat down and discussed it in Streett's office. Chapman received a "fair" rating in the categories of work quality and supervisory skills. In the category of initiative, he received both a "fair" and a "satisfactory" rating. In the other five categories, which included job knowledge, communication/listening skills, work efficiency, and dependability he received a "satisfactory" rating. Thus, in three of the eight categories, the employer deemed Chapman's performance below standard. Johnson testified that Streett "talked to [Chapman] about the things that he was concerned with under the fair categories." In the "comments" section regarding work quality, Streett noted that Chapman had "[l]eft cutters at [a] job site," had "[l]eft [an] outrigger pad at [a] job site," and put a "[t]ree limb through [a] windshild [sic]." Finally, Streett testified that he talked to Chapman on many occasions about his deficiencies.

10. Chapman testified that he and Tharaldsen first raised concerns to Ty Parker "in the month of September" 2013 about the need for a "call out" list that fairly and equitably distributed overtime. Streett testified that he knew Chapman and Tharaldsen "wanted to do it one way, [and] Ty [Parker] wanted to do it a different way." Chapman testified that he raised concerns on behalf of himself and other journeymen. Of the nine employees on the "call

out" list, Ty Parker had the most hours of overtime, and Tharaldsen had the second highest amount. Chapman had less and was sixth out of nine.

11. Chapman and Tharaldsen's concerns revolved around a portion of Article VII, Section 7.2 OVERTIME – CALLTIME in the CBA. The section addresses both "on call" duty and the "call out" list. Employees receive overtime for all time actually worked. Linemen who are "on call" and who receive a call that needs additional assistance are to look to the "call out" list for help. Article VII, Section 7.2.1.1 of the CBA states that "[a]n additional call out list will be kept based on the collaboration of supervisors and employees for the fair and equitable distribution of overtime hours." Article VII, Section 7.2.6 of the CBA states that "[s]upervisors and affected employees will collaboratively develop and administer guidelines for the fair and equitable distribution of call out or scheduled overtime." However, despite this requirement in the CBA, no actual list existed. Lineman "on call" would randomly "call out" other employees to come in and assist if needed.

12. Before starting work October 21, 2013, Chapman went into Streett's office and asked if he, Tharaldsen, Ty Parker, and Streett could have a meeting "[t]o get the overtime thing straightened out, or to try to get it straightened out." Streett told Chapman "sure, not a problem," but the meeting never happened. Rather, minutes later a disagreement arose when Chapman went into the crew room where all the linemen gathered and waited to start work. The disagreement was over whether the "call out" list should be kept based on who was last called or, alternatively, who had the least amount of overtime. Because members could decline calls, Ty Parker favored putting the employee who was last called at the bottom of the list so no "cherry picking" would occur. Conversely, Chapman thought the lineman with the most overtime should be at the bottom of the list. Tharaldsen testified that he also advocated at the meeting that the lineman with the most overtime should be placed at the bottom of the list. None of the other linemen in the room for this meeting expressed a preference. Streett was in attendance as well as, but he did not express a preference.

13. Chapman testified that Ty Parker became angry during the discussion over the "call out" list on October 21, 2013. Chapman also testified that when the discussion turned to basing trading days for linemen "on call" on the least amount of overtime, Ty Parker got very angry and started "screaming." Chapman testified that he did not raise his voice. Tharaldsen thought the discussion became heated, and he recalled Ty Parker raising his voice, but he did not recall Chapman doing the same. Streett, however, testified that he could not remember the two men having a conversation where either raised their voice. He testified, "I wouldn't call it arguing, we debated . . . ." At hearing, Ty Parker was not asked by either party whether the discussion became heated.

14. Jim Parker testified that he was not aware of the "call out" issue until Johnson brought it to his attention. Jim Parker testified that at the time he knew Ty Parker wanted the "call out" list handled differently than other linemen, and he also knew that Chapman and Ty Parker did not get along. Jim Parker did not have an opinion about the best way to apply the list and thought that the union should decide since both options would cost the employer the same amount of money.

15. On the evening of October 27, 2013, Chapman received a "call out" from Streett, and he declined it because he had been watching football and had several beers that night.

16. On October 28, 2013, when Chapman showed up for work, he learned that all the linemen, except for himself and Tharaldsen, were out on another call. After Streett gave Chapman and Tharaldsen their daily assignment, a dispute arose. Chapman called Ty Parker and suggested he and Tharaldsen go to the job site to pick up equipment they needed to complete their assignment, but Ty Parker told Chapman to wait for him to return to the shop with the needed equipment. After ending the conversation with Ty Parker, Chapman walked into Streett's office to tell him that he and Tharaldsen were going to wait for the crew to return with the equipment they needed. When he entered Streett's office, he overheard Ty Parker on the speakerphone calling Chapman "stupid" for suggesting they go to the job site to get the equipment off the truck.

17. When Ty Parker came back from the job site 30 to 45 minutes later, he exchanged words with Chapman. Chapman testified that Ty Parker told him, in reference to not accepting a "call out" the night before, that linemen should be required to take 50 percent of "call outs." Chapman testified that he told Ty Parker "well, there's nothing in the contract as far as you want to force me to sit around on the weekend and wait for something to happen. . . . After that I could tell it upset Ty [Parker] . . . . I thought, you know, I might have just pissed him off too much." Ty Parker testified that he did not remember saying anything about 50 percent of the calls, but did think that linemen should "all pull our weight."

18. The decision to fire Chapman was made on October 28, 2013, because he had been "rude to his supervisor" that day. Streett testified that he recommended again to Jim Parker that the employer terminate Chapman because he "realiz[ed] that Ty [Parker] and [Chapman] weren't going to work well together, they couldn't work together." Streett felt that one of them needed to leave JPUD. Regarding Chapman's performance in a lead position, Streett testified that Chapman lacked initiative because he was always the last to leave the break room in the morning after the crew received their daily assignments. Streett determined that Ty Parker was the better employee because he felt he had a better skill set, was a better leader, took more initiative, was available after hours, had an extraordinarily good work ethic, and worked well with the public. This determination was based on both his and Ty Parker's observations. Streett and Ty Parker testified that they did not explicitly talk about Chapman's termination at this time. Streett then went to Jim Parker and recommended Chapman's termination. Jim Parker agreed that Chapman should be let go.

19. On October 29, 2013, Chapman was terminated. With Johnson and Tharaldsen in attendance, Streett told Chapman that he was being let go because he was "not a good fit" for JPUD. Streett explained at hearing that this was because of performance issues and the tension between Chapman and Ty Parker.

20. Jim Parker testified that he "relied heavily on reports from [Streett]" in reaching his decision because he personally observed Chapman's performance "very seldom." Jim Parker further testified that when he was at the shop he could see there was tension between the two men. However, he never attributed that tension to a difference of opinion about the "call out" list. Rather, he felt that the tension may have been due to the two competing for the job of foreman, and then Chapman having to work under Ty Parker while having different thoughts about how things should be done. Jim Parker testified that "we're a small utility, so [when] two people can't get along, it really makes things hard." To Jim Parker, Chapman's termination "had more to do with what was becoming a kind of divisive atmosphere in the utility" and ensuring JPUD operated as efficiently as possible with only several linemen. Ty Parker was not fired because Jim Parker felt he was the better employee.

21. Around the end of October 2013, the employer and union had a meeting and resolved the "call out" issue by adopting the position Chapman and Tharaldsen advocated. Tharaldsen testified that the employer and the union worked out the issue "without any resistance" from Streett. Ultimately, a "call out" list on which the employee with the least amount of overtime was listed first was posted. However, the testimony varied as to the actual date the meeting occurred and when the list was posted.

22. On November 1, 2013, Chapman e-mailed Jim Parker and JPUD's Board of Commissioners with a list of his concerns regarding his termination. He stated that during his employment he brought up issues with Washington State safety laws and issues with the applicable CBA. He claimed that these were the reasons why he was let go. Chapman claimed that while employed he was required to break safety laws and that he advocated for a fair and equitable "call out" list for the assignment of overtime hours. Chapman wrote that "we were finally able to get a call out list which showed salary and overtime hours. A week later I was let go." Chapman felt that he was singled out because he was trying to do what was right for JPUD and the state. He concluded his e-mail by asking for a thorough investigation.

23. As a result of this e-mail, the employer had Johnson conduct an investigation. She interviewed six other employees who had worked with Chapman and Ty Parker, including Tharaldsen. From these interviews, she found that: "Ty is a good and fair supervisor. There was a lot of "tension" between [Chapman] and Ty, on almost a daily basis. Now that [Chapman] is gone, Ty seems less agitated, therefore has calmed down with the rest of the crew. Ty is fair . . . . He is easily approachable, and is easy to talk to if there is a[n] . . . issue that comes up." Johnson also found that although he mainly communicates through Ty Parker, Streett was seen as good support to the crew and viewed as approachable.

24. On or about November 6, 2013, Johnson filled out an Employment Security Department (ESD) Job Separation Statement. It stated that Chapman "was disrespectful to his supervisor, and just wasn't a good fit." She also wrote that "his performance didn't meet expectations," and "the decision was made to let him go, before he became permanite [sic]." An ESD Expert Fact Finding form states: "We set him down and told him that he was not a good fit . . . . [H]e was kind of rude to his supervisor, but it was not a significant issue. We would have to let him go anyway. . . . The main and only reason he was let go [sic] because he was not a good fit for the position . . . ."

25. Tharaldsen was promoted to the position of foreman on January 2, 2014. Ty Parker resigned in February 2014.

26. Although the complainant proved a *prima facie* case of discrimination, after JPUD articulated non-discriminatory reasons for Chapman's termination, the complainant failed to sustain its ultimate burden to prove by a preponderance of the evidence that the employer was substantially motivated by union animus or pretext when it terminated Chapman.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter pursuant to Chapter 41.56 RCW and Chapter 391-45 WAC.

2. By the actions described in Findings of Fact 5 through 26, the complainant failed to sustain its burden of proof to establish that the employer discriminated (and derivatively interfered) by terminating Chapman in reprisal for union activities in violation of RCW 41.56.140(1).

ORDER

The complaint charging unfair labor practices filed in the above-captioned matter is dismissed.

ISSUED at Olympia, Washington, this 18th day of May, 2015.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

DIANNE RAMERMAN, Examiner

This order 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

RECORD OF SERVICE - ISSUED 05/18/2015

The attached document identified as: DECISION 12332 - 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/ VANESSA SMITH

CASE NUMBER:	26441-U-14-06745	FILED:	04/29/2014	FILED BY:	PARTY 2
DISPUTE:	ER DISCRIMINATE				
BAR UNIT:	ELEC LINEMEN				
DETAILS:	-				
COMMENTS:					

EMPLOYER: JEFFERSON PUD 1
ATTN: JAMES PARKER
310 4 CORNERS ROAD
PORT TOWNSEND, WA 98368-9368
jparker@jeffpud.org
Ph1: 360-385-5800 Ph2: 360-385-2016

REP BY: TRACY M MILLER
KARR TUTTLE CAMPBELL
701 FIFTH AVE STE 3300
SEATTLE, WA 98104
Ph1: 206-223-1313

PARTY 2: LARRY CHAPMAN
ATTN: C/O SEAN PHELAN
FRANK FREED SUBIT & THOMAS
705 2ND AVE STE 1200
SEATTLE, WA 98104
sphelan@frankfreed.com
Ph1: 206-682-6711

REP BY: SEAN PHELAN
FRANK FREED SUBIT THOMAS
HOGE BLDG STE 1200
705 2ND AVE
SEATTLE, WA 98104-1798
Ph1: 206-682-6711