

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

UNIVERSITY OF WASHINGTON,

Employer.

ESSIE BROWN,

Complainant,

vs.

SERVICE EMPLOYEES INTERNATIONAL
UNION, LOCAL 1199NW,

Respondent.

CASE 22353-U-09-5698

DECISION 10396-A - PSRA

DECISION OF COMMISSION

Essie Brown appeared on her own behalf.

On March 26, 2009, Essie Brown (Brown) filed a complaint alleging that the Service Employees International Union, Local 1199NW committed numerous unfair labor practices, including an allegation that Local 1199NW unlawfully withdrew a grievance concerning Brown's termination. On April 2, 2009, Unfair Labor Practice Manager David I. Gedrose issued a deficiency notice informing Brown that her complaint failed to state a cause of action that could be redressed through the statutes that this agency administers. The deficiency notice gave Brown twenty-one days to file an amended complaint that stated a cause of action. The Unfair Labor Practice Manager granted Brown a two-week extension to file her amended complaint.

On May 4, 2009, Brown filed an amended complaint which focused on the union's failure to process the grievance surrounding her termination. On May 8, 2009, the Unfair Labor Practice Manager found that Brown failed to cure the defects of her complaint and issued an Order of Dismissal under WAC 391-45-110(1). *University of Washington*, Decision 10396 (PSRA,

2009). The Unfair Labor Practice Manager noted that this agency does not assert jurisdiction in matters involving the processing of grievances, including whether the union arbitrates the dispute, and whether exclusive bargaining representatives generally have a duty of fair representation to their members with respect to processing grievances. The Unfair Labor Practice Manager concluded that any remedy sought by Brown must be through Local 1199NW or the superior courts.¹

WAC 391-45-350 governs appeals in unfair labor practice proceedings. That rule states, in part:

An order issued under WAC 391-45-110(1) or 391-45-310 and any rulings in the proceedings up to the issuance of the order may be appealed to the commission as follows:

(1) The due date for a notice of appeal shall be *twenty days* following the date of issuance of the order being appealed. The time for filing a notice of appeal cannot be extended.

(emphasis added). Because the Unfair Labor Practice Manager issued his ruling on May 8, 2009, the due date for any notice of appeal would have been May 28, 2009, twenty days after the issuance of the Unfair Labor Practice Manager's decision. Brown did not file a timely notice of appeal; however, on June 12, 2009, Brown filed a request for an extension to appeal the Unfair Labor Practice Manager's order of dismissal. Brown asserts that, during the relevant appeal period, she was away on a family emergency. We must deny Brown's request for an extension to file her appeal.

The Supreme Court of Washington requires strict compliance with time limits in a case arising out of the labor laws that this Commission administers. *See City of Seattle v. PERC*, 116 Wn.2d 923 (1991). As such, this Commission strictly enforces WAC 391-45-350(1) and has declined to waive its rules and allow a party to file a late appeal. *See Port of Seattle*, Decision 2661-B (PECB, 1988). While we are not insensitive to Brown's situation, we cannot deviate from the established precedent.

¹ The Unfair Labor Practice Manager also held that Brown's complaint was not timely under RCW 41.80.120 because all of the allegations occurred more than six months prior to the filing of her complaint. This conclusion was correct, and provides a second basis for dismissing her complaint.

NOW, THEREFORE, it is


ORDERED

The Order of Dismissal issued by Unfair Labor Practice Manager David I. Gedrose is AFFIRMED and adopted as the Order of Dismissal of the Commission.

ISSUED at Olympia, Washington, this 14th day of July, 2009.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


MARILYN GLENN SAYAN, Chairperson


PAMELA G. BRADBURN, Commissioner


THOMAS W. McLANE, Commissioner