

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

INTERNATIONAL UNION OF
OPERATING ENGINEERS, LOCAL 609,

Complainant,

vs.

SEATTLE SCHOOL DISTRICT,

Respondent.

CASE 129589-U-17

DECISION 13018-A - PECB

DECISION OF COMMISSION

Kathleen Phair Barnard and Melissa Greenberg, Attorneys at Law, Barnard Iglitzin and Lavitt LLP, for the International Union of Operating Engineers, Local 609.

Parker A. Howell and Valerie Walker, Attorneys at Law, Porter Foster Rorick LLC, for the Seattle School District.

On August 9, 2017, the International Union of Operating Engineers, Local 609 (union) filed an unfair labor practice complaint against the Seattle School District (employer). The union alleged that the employer discriminated against Tiffany White and interfered with employee rights. The matter proceeded to six days of hearing before Examiner Karyl Elinski. The Examiner dismissed the union's complaint. *Seattle School District*, Decision 13018 (PECB, 2019). The union filed a timely appeal.

The Commission applies its experience and specialized knowledge in labor relations to decide cases. RCW 34.05.461(5). The Commission reviews conclusions and applications of law, as well as interpretations of statutes, de novo. *City of Wenatchee*, Decision 8802-A (PECB, 2006). The Commission also reviews findings of fact to determine if they are supported by substantial evidence and, if so, whether those findings in turn support the examiner's conclusions of law. *C-TRAN (Amalgamated Transit Union, Local 757)*, Decision 7087-B (PECB, 2002).

The Commission reviews factual findings for substantial evidence in light of the entire record. Substantial evidence exists if the record contains evidence of sufficient quantity to persuade a fair-minded, rational person of the truth of the declared premise. *City of Vancouver v. Public Employment Relations Commission*, 107 Wn. App. 694, 703 (2001); *C-TRAN (Amalgamated Transit Union, Local 757)*, Decision 7087-B. The Commission attaches considerable weight to the factual findings and inferences, including credibility determinations, made by its examiners. *Cowlitz County*, Decision 7007-A (PECB, 2000). This deference is highly appropriate in fact-oriented appeals. *C-TRAN (Amalgamated Transit Union, Local 757)*, Decision 7087-B.

The issues before the Commission are whether the employer discriminated against White when the employer refused to issue a letter excluding a parent from the school campus, when the employer denied complaints that White filed, and when the employer terminated White's benefits while she was on leave; and whether the employer interfered with employee rights by statements made by the principal to White during the processing of complaints that White filed with the employer.

We have reviewed the transcript, the exhibits, and the parties' briefs. The Examiner appropriately balanced White's right to a safe workplace with the employer's efforts to create a supportive educational environment for its students, and correctly stated the legal standard for the discrimination and interference allegations. Substantial evidence supports the Examiner's findings of fact, which in turn support the Examiner's conclusions of law.

We affirm the Examiner.

ORDER

The Findings of Fact, Conclusions of Law, and Order issued by Examiner Karyl Elinski are AFFIRMED and adopted as the Findings of Fact, Conclusions of Law, and Order of the Commission.

ISSUED at Olympia, Washington, this 7th day of November, 2019.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


MARILYN GLENN SAYAN, Chairperson


MARK BUSTO, Commissioner


KENNETH J. PEDERSEN, Commissioner



RECORD OF SERVICE

ISSUED ON 11/07/2019

DECISION 13018-A - PECB has been served by mail and electronically by the Public Employment Relations Commission to the parties and their representatives listed below.

BY: AMY RIGGS

CASE 129589-U-17

EMPLOYER: SEATTLE SCHOOL DISTRICT

REP BY: DENISE JUNEAU
SEATTLE SCHOOL DISTRICT
PO BOX 34165
SEATTLE, WA 98124-1165
superintendent@seattleschools.org

PARKER A. HOWELL
PORTER FOSTER RORICK LLP
601 UNION ST STE 800
SEATTLE, WA 98101-2341
parker@pfrwa.com

MELISSA GREENBERG
BARNARD IGLITZIN & LAVITT LLP
18 W MERCER ST STE 400
SEATTLE, WA 98119
greenberg@workerlaw.com

VALERIE WALKER
PORTER FOSTER RORICK LLP
601 UNION ST STE 800
SEATTLE, WA 98101
valerie@pfrwa.com

PARTY 2: INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 609

REP BY: DAVID WESTBERG
INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 609
2800 1ST AVE STE 311
SEATTLE, WA 98121
iuoe609@qwestoffice.net

KATHLEEN PHAIR BARNARD
BARNARD IGLITZIN & LAVITT LLP
18 W MERCER ST STE 400
SEATTLE, WA 98119-3971
barnard@workerlaw.com