

STATE OF WASHINGTON  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

YAKIMA COUNTY,  Employer.	
ABIEL PAZ,  Complainant,  vs.  TEAMSTERS LOCAL 760,  Respondent.	CASE 133287-U-21 DECISION 13323 - PECB  ORDER OF DISMISSAL

*Abiel Paz*, the complainant.

*David W. Ballew*, Attorney at Law, Reid, McCarthy, Ballew & Leahy, L.L.P., for  
Teamsters Local 760.

On January 14, 2021, Abiel Paz (complainant) filed an unfair labor practice complaint against Teamsters Local 760 (union). The complaint was reviewed under WAC 391-45-110.<sup>1</sup> A deficiency notice issued on February 9, 2021, notified Paz that a cause of action could not be found at that time. Paz was given a period of 21 days in which to file and serve an amended complaint or face dismissal of the case.

No further information has been filed by Paz. The Unfair Labor Practice Administrator dismisses the complaint for failure to state a cause of action.

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<sup>1</sup> At this stage of the proceedings, all of the facts alleged in the complaint or amended 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.

## ISSUE

The complaint alleges the following:

Unidentified union unfair labor practice, within six months of the date the complaint was filed, by failing to demand negotiations with Yakima County over a “set bed” contract entered into between the Yakima County Department of Corrections and Yakima Police Department.

The complaint fails to describe facts that could constitute a violation within the Commission’s jurisdiction. Accordingly, Paz’s complaint is dismissed.

## BACKGROUND

Paz works as a corrections officer for the Yakima County Department of Corrections (employer) and is represented by Teamsters Local 760 for purposes of collective bargaining. The employer and the union are parties to a collective bargaining agreement that expired on March 31, 2019.

According to the complaint, Yakima County and the Yakima Police Department (YPD) entered into a “set bed” contract where the YPD would be allowed to book up to 50 individuals arrested on misdemeanor charges at the county’s correctional facility. This agreement became effective January 1, 2021.

Paz’s asserts that he brought this agreement to the attention of union representative Carl Keller and shop steward Krystal Lipp because, according to him, the agreement drastically changes the working conditions for bargaining unit employees. According to Paz, the union did not engage the employer in any negotiations concerning the agreement.

## ANALYSIS

Paz’s complaint does not state a cause of action that is actionable before this agency. Aside from asserting that the union failed to engage the employer in negotiations concerning the “set bed”

agreement, Paz has not asserted that the union took any other actions that constitute an unfair labor practice.

An employee cannot file a unilateral change refusal to bargain complaint as an individual. *King County (Washington State Council of County and City Employees, Local 2084)*, Decision 7139 (PECB, 2000) (citing *Clark County*, Decision 3200 (PECB, 1989)); *Enumclaw School District (Public School Employees of Washington)*, Decision 5979 (PECB, 1997). Only the parties to the collective bargaining relationship (the union or the employer) can file a refusal to bargain case. Paz lacks standing to assert that the union has failed to abide by its good faith bargaining obligation.

Paz's complaint also lacks facts for other types of unfair labor practices. For example, while the Commission is vested with authority to ensure that exclusive bargaining representatives safeguard employee rights, the Commission does not assert jurisdiction to remedy alleged contract violations under the unfair labor practice provisions of the collective bargaining statutes it administers. *Washington State Ferries (Marine Engineers Beneficial Association)*, Decision 11688 (MRNE, 2013). Similarly, the Commission does not have jurisdiction over allegations of a breach of the duty of fair representation by unions involving contractual grievances. *Washington State Ferries (International Organization of Masters, Mates and Pilots)*, Decision 11924 (MRNE, 2013).

While the Commission does not assert jurisdiction over "breach of duty of fair representation" claims arising exclusively out of the processing of contractual grievances, the Commission does process other types of "breach of duty of fair representation" complaints against unions. A union breaches its duty of fair representation when its conduct is arbitrary, discriminatory, or in bad faith. *Vaca v. Sipes*, 386 U.S. 171, 177 (1967); *City of Seattle (Seattle Police Officers' Guild)*, Decision 11291-A (PECB, 2012). In rare circumstances, the Commission asserts jurisdiction in duty of fair representation cases. *City of Seattle (Seattle Police Officers' Guild)*, Decision 11291-A. The Commission asserts jurisdiction in duty of fair representation cases when an employee alleges its union aligned itself in interest against employees it represents based on invidious discrimination. *Id.* In such cases, the employee bears the burden of establishing that the union took some action aligning itself against bargaining unit employees on an improper or invidious basis, such as union

membership, race, sex, national origin, etc. *Id.* Here, the facts alleged in this this complaint fail to demonstrate that a cause of action exists.

ORDER

The complaint charging unfair labor practices in the above-captioned matter is DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 18th day of March, 2021.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



DARIO DE LA ROSA, Unfair Labor Practice Administrator

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.



# RECORD OF SERVICE

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ISSUED ON 03/18/2021

DECISION 13323 - 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 133287-U-21

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