

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

WASHINGTON STATE LIQUOR AND CANNABIS BOARD,  Employer.	
MARK J. BAKER,  Complainant,  vs.  WASHINGTON FEDERATION OF STATE EMPLOYEES,  Respondent.	CASE 132582-U-20  DECISION 13333-A - PSRA  DECISION OF COMMISSION
ROBERT M. LUCAS,  Complainant,  vs.  WASHINGTON FEDERATION OF STATE EMPLOYEES,  Respondent.	CASE 132583-U-20  DECISION 13334-A - PSRA  DECISION OF COMMISSION

*Mark J. Baker*, the complainant.

*Robert M. Lucas*, the complainant.

*Edward Earl Younglove III*, Attorney at Law, Younglove & Coker, P.L.L.C., for  
the Washington Federation of State Employees.

BACKGROUND

On February 25, 2020, Mark Baker and Robert Lucas (complainants) filed separate unfair labor practice complaints against the Washington Federation of State Employees (union). The

complainants alleged the union interfered with employee rights and breached its duty of fair representation when the union missed the deadline to advance the grievances to the next step of the grievance procedure. An Unfair Labor Practice Administrator issued a preliminary ruling. The union filed an answer to each complaint.

The case was assigned to Examiner Erin Slone-Gomez. On November 30, 2020, the union filed motions for summary judgment. On December 22, 2020, the complainants filed a consolidated response opposing summary judgment. On January 7, 2021, the union filed a reply. After considering the arguments and facts before her, the Examiner granted the union's motion for summary judgment and dismissed the complaint. *Washington State Liquor and Cannabis Board (Washington Federation of State Employees)*, Decision 13333 (PSRA, 2021). The Examiner concluded that there were no issues of material fact in dispute. *Id.* The Examiner further concluded that the union's failure to advance the grievances was a mistake that was not discriminatory, made in bad faith, or arbitrary. *Id.* at 7. The Examiner dismissed the complaints.

The complainants filed a timely appeal. The parties filed briefs.

### ISSUE

The issue before the Commission is whether the union was entitled to summary judgment. If so, did the union interfere with employee rights in violation of RCW 41.80.110(2)(a) by breaching its duty of fair representation by failing to file step three grievances for the complainants? We affirm the Examiner. Summary judgment is appropriate. The union did not violate RCW 41.80.110(2)(a).

### ANALYSIS

#### Applicable Legal Standard

The standard of review on summary judgment is de novo. *Washington Federation of State Employees v. State of Washington*, 127 Wn.2d 544, 551 (1995); *Kiona Benton School District (Kiona Benton Education Association)*, Decision 11862-A (EDUC, 2014). On review, the Commission performs the same inquiry as the Examiner. *Freedom Foundation v. Gregoire*, 178 Wn.2d 686, 694 (2013); *Kiona Benton School District (Kiona Benton Education Association)*,

Decision 11862-A. On appeal, the issue is whether there are any genuine issues of material fact that would negate the motion for summary judgment. *Jacobsen v. State of Washington*, 89 Wn.2d 104, 108 (1977); *Cowlitz County*, Decision 12483-A (PECB, 2016).

### CONCLUSION

We have reviewed the record, including the briefing related to the summary judgment motions. Summary judgment is appropriate in this case. We affirm the Examiner's conclusion that the union did not breach its duty of fair representation when it missed the filing deadline and did not advance the complainants' grievances to step three.

### ORDER

The Findings of Fact, Conclusions of Law, and Order entered by Examiner Erin Slone-Gomez are AFFIRMED and adopted as the Findings of Fact, Conclusions of Law, and Order of the Commission.

ISSUED at Olympia, Washington, this 24th day of August, 2021.

#### PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARILYN GLENN SAYAN, Chairperson



MARK BUSTO, Commissioner



KENNETH J. PEDERSEN, Commissioner

This order will be the final order of the agency unless a notice of appeal is filed with the Commission under RCW 34.05.542.



# RECORD OF SERVICE

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ISSUED ON 08/24/2021

DECISION 13333-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 132582-U-20

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# RECORD OF SERVICE

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ISSUED ON 08/24/2021

DECISION 13334-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 132583-U-20

EMPLOYER: WASHINGTON STATE LIQUOR AND CANNABIS BOARD

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