

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

SEATTLE COLLEGES, Employer.	
GILA BURTON-CURL, Complainant,	CASE 136330-U-23
vs.	DECISION 13682 - CCOL
AMERICAN FEDERATION OF TEACHERS WASHINGTON, Respondent.	ORDER OF DISMISSAL

Gila Burton-Curl, Complainant.

Dmitri Iglitzin, Attorney at Law, Barnard Iglitzin & Lavitt LLP, for the American Federation of Teachers Washington.

On March 23, 2023, Gila Burton-Curl (complainant) filed an unfair labor practice complaint against AFT Washington (union). The complaint was reviewed under WAC 391-45-110.¹ A deficiency notice issued on May 11, 2023, notified the complainant that a cause of action could not be found at that time. The complainant was given a period of 21 days in which to file and serve an amended complaint or face dismissal of the case.

¹ 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.

On June 1, 2023, the complainant filed an amended complaint. The Unfair Labor Practice Administrator dismisses the amended complaint for failure to state a cause of action.

ISSUE

The amended complaint alleges the following:

Union interference with employee rights in violation of RCW 41.56.150(1) within six months of the date the complaint was filed, by breaching its duty of fair representation for unidentified actions on an invidious discrimination, arbitrary, or bad faith basis.

The amended complaint is dismissed because it lacks facts alleging the union breached its duty of fair representation.

BACKGROUND

Gila Burton-Curl is a part-time faculty employee at Seattle Colleges (employer). Burton-Curl is represented by AFT Washington (union). On January 5, 2023, the employer allegedly admitted it had failed to follow ADA procedures. The complaint alleges the union has failed to address discrimination in the employer's executing ADA policy.

In February 2023, the union allegedly failed to disclose sick leave hours to the Department of Labor and Industries regarding a wage claim Burton-Curl filed.

In March 2023, the Department of Labor and Industries was unable to interview the union president and the department rendered a decision in favor of the employer.

On an unidentified date, the union filed a grievance on Burton-Curl's behalf. The union and employer settled the grievance resulting in Burton-Curl receiving 65.25 hours of sick leave. The

additional grievance sick leave was not added to the employer's payroll system.² Burton-Curl allegedly was not allowed to provide input in the settlement discussions. Burton-Curl alleges the agreement to keep the hours out of the payroll system is a violation of Section 6.1 of the collective bargaining agreement. Burton-Curl allegedly did not get paid in September 2022, October 2022, February 2023, and March 2023. Burton-Curl subsequently filed a case in Superior Court.

On October 5, 2022, Burton-Curl was allegedly removed from the building by a co-worker. The amended complaint alleges this is disparate treatment and discriminatory.

On December 21, 2022, the union notified Burton-Curl it would need to check with the attorney regarding unidentified information. The amended complaint identifies section 4.6 of an unidentified document.

The amended complaint also alleges that there was no union representation or grievance filed for payroll lost wages in September and October 2022 or February and March 2023, exhibit priority hire list class selection for winter 2022, exhibit email from Annette Stoufer stating the employee may not be eligible for Paid Medical Family Leave, Exhibit October 7, 2023,³ Annette Stoufer attended Zoom meeting for incident "trauma work injury." JD Burchfield allegedly stated Burton-Curl was asked to exit the building, so another teacher could teach, exhibit retaliation for opposing an unfair practice.

ANALYSIS

The amended complaint lacks facts on how the union took action on a bad faith, arbitrary, or invidious basis. The complaint alleges the union failed to address alleged discrimination in the employer's executing ADA policy but does not provide facts on what did or did not occur or how

² The facts alleged in case 136329-U-23, which is a case against the employer based on similar facts, alleges that the union and employer kept record of these hours "off the books."

³ Because October 7, 2023, has not occurred yet, it is assumed this should be October 7, 2022.

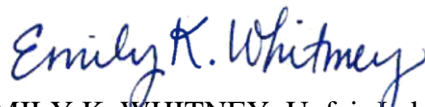
the union's action was in bad faith, arbitrary or discriminatory. The complaint also alleges the union filed an unidentified grievance for Burton-Curl and reached a settlement of additional sick leave time. The complaint also alleges the union failed to file a grievance for multiple events but does not include facts alleging whether the employee requested a grievance to be filed and how the union responded to the request. It appears the union was checking with the union attorney in regard to the priority hire allegations. It is not clear in the amended complaint if the union provided a response after it reached out to the attorney. The amended complaint does not allege the employee requested a grievance be filed for the lost wages. The amended complaint alleges the employee filed a claim with Labor and Industries for the lost wages. Because the amended complaint does not allege facts related to how the union's actions were arbitrary, discriminatory or in bad faith, the amended complaint must be dismissed.

ORDER

The amended 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 29th day of June, 2023.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



EMILY K. WHITNEY, 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

ISSUED ON 06/29/2023

DECISION 13682 - CCOL has been served by mail and electronically by the Public Employment Relations Commission to the parties and their representatives listed below.

BY: DEBBIE BATES

CASE 136330-U-23

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