

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

TIFFIANY DIGGINS,

Complainant,

vs.

SEATTLE HOUSING AUTHORITY,

Respondent.

CASE 137845-U-23

DECISION 13777 - PECB

ORDER OF DISMISSAL

*Tiffany Diggins*, the complainant.

*Valerie Scott McKenna*, Human Resources Manager, for the Seattle Housing Authority.

On November 7, 2023, Tiffany Diggins (complainant) filed an unfair labor practice complaint against the Seattle Housing Authority (employer). The complaint was reviewed under WAC 391-45-110.<sup>1</sup> A deficiency notice issued on December 6, 2023, notified the complainant that a cause of action could not be found at that time. Diggins 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 Diggins.

ISSUE

The complaint alleges the following:

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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.

Employer refusal to bargain in violation of RCW 41.56.140(4) [and if so derivative interference in violation of RCW 41.56.140(1)] within six months of the date the complaint was filed, by failing and/or refusing to provide Tiffany Diggins with information that she requested concerning her complaints and grievances.

Violations of the collective bargaining agreement.

The complaint is dismissed for failure to state a cause of action. The allegation that the employer committed an unfair labor practice by failing to provide Diggins with information that she requested cannot be processed because individual employees lack standing to file information requests under chapter 41.56 RCW. Additionally, the Commission has consistently refused to resolve “violation of contract” allegations or attempts to enforce a provision of a collective bargaining agreement through the unfair labor practice provisions it administers. Any remedy for contract violations must come through the grievance and arbitration machinery of the contract or through the superior courts.

### BACKGROUND

Tiffany Diggins worked for the Seattle Housing Authority. Her position was represented by the Office and Professional Employees International Union Local 8 for purposes of collective bargaining.

In order to place Diggins’ complaints in their proper context, it is necessary to revisit the litigation history between Diggins and the employer. On July 15, 2022, Diggins filed an unfair labor practice complaint against the employer concerning a negative performance evaluation that she received. Case 135318-U-22. Diggins’ complaint received a deficiency notice and Diggins filed an amended complaint.

On September 12, 2022, a preliminary ruling was issued in case 135318-U-23 for employer discrimination in violation of RCW 41.56.140(3). The amended complaint alleged the employer retaliated against Diggins for filing an unfair labor practice complaint by interfering with her connectivity and access to employer systems.

Turning to the instant complaint, Diggins asserts that on February 7, 2023, she advised the employer that it was intentionally violating the unidentified provisions of the Code of Federal Regulations and the Fair Housing Act. The complaint asserts that 17 days later, or February 24, 2023, the employer terminated her employment. Diggins claims that in terminating her employment, the employer violated numerous provisions of the collective bargaining agreement between the employer and union. Diggins also asserts that the employer failed to provide her with information that she had previously requested. Diggins claims the employer introduced the requested documents into evidence during the May 18, 2023, June 5, 2023, and September 18, 2023, hearings in case 135318-U-23.

It appears from the complaint that on February 28, 2023, the union filed a grievance concerning Diggins' termination. However, Diggins asserts when the employer responded to the grievance on April 21, 2023, it never sent her notification and Diggins had to contact the union to receive a copy. The complaint also asserts that the employer failed to provide Diggins copies of emails and evaluations that she requested that appeared to be germane to her grievance.

## ANALYSIS

### Applicable Legal Standards

#### *Duty to Provide Information*

The duty to bargain requires a public employer and the exclusive bargaining representative to bargain in good faith over grievance procedures, wages, hours, and working conditions. RCW 41.56.030(4).

The duty to bargain includes an obligation to provide relevant information needed by the opposite party for the proper performance of its duties in the collective bargaining process. *City of Bellevue v. International Association of Fire Fighters, Local 1604*, 119 Wn.2d 373 (1992). The flow of information between the parties must continue during the parties' preparation for interest arbitration. *City of Clarkston*, Decision 3246 (PECB, 1989).

In evaluating information requests, the Commission considers whether the requested information appears reasonably necessary for the performance of the union's function as bargaining representative. *City of Bellevue*, Decision 4324-A (PECB, 1994). Failure to provide relevant information upon request constitutes a refusal to bargain unfair labor practice. *University of Washington*, Decision 11414-A (PSRA, 2013).

#### *Violations of the Collective Bargaining Agreement*

The Commission has consistently refused to resolve "violation of contract" allegations or attempts to enforce a provision of a collective bargaining agreement through the unfair labor practice provisions it administers. *Anacortes School District*, Decision 2464-A (EDUC, 1986) (citing *City of Walla Walla*, Decision 104 (PECB, 1976)). The Commission has consistently held that any remedy for a contract violation will have to come through the grievance and arbitration machinery of that contract, or through the superior courts. *South Whidbey School District*, Decision 11134-A (EDUC, 2011) (citing *Tacoma School District*, Decision 5722-E (EDUC, 1997)).

#### Application of Standards

##### *Duty to Provide Information*

Diggins' complaint asserts the employer committed an unfair labor practice when it failed to respond to her information requests. This allegation fails to state a cause of action before this agency because individual employees lack standing to raise duty to provide information complaints.

As noted above, the duty to bargain includes an obligation to provide relevant information needed by the opposite party for the proper performance of its duties in the collective bargaining process. Accordingly, when a party to a collective bargaining relationship fails to adequately respond to a request for information, that party has breached its good faith bargaining obligations. Under Washington's collective bargaining laws, the duty to bargain is an obligation between the exclusive bargaining representative and the public employer and only the parties to the collective bargaining relationship can file a refusal to bargain unfair labor practice case. An employee cannot file a refusal to bargain complaint as an individual. *King County (Washington State Council of*

*County and City Employees*), Decision 7139 (PECB, 2000) (citing *Clark County*, Decision 3200 (PECB, 1989); *Enumclaw School District (PSE of Washington)*, Decision 5979 (PECB, 1997)).

*Violations of the Collective Bargaining Agreement*

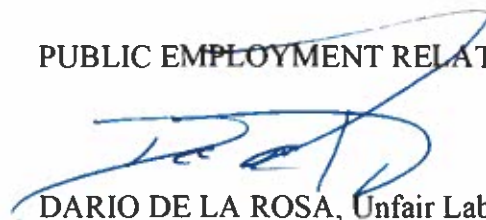
Diggins' allegation that the employer breached numerous provisions of the collective bargaining agreement also fails to state a cause of action before this agency. This agency has consistently refused to resolve assertions that a party has breached a provision of a collective bargaining agreement through the unfair labor practice provisions it administers. Similarly, this agency also declines to enforce a provision of a collective bargaining agreement through those same unfair labor practice provisions. The proper forum for Diggins to have sought redress for these allegations was either through the grievance procedure contained within the collective bargaining agreement or through the superior courts.

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 24th day of January, 2024.

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 01/24/2024

DECISION 13777 - PECB 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 137845-U-23

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