

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

GLORIA BUTTS,

Complainant,

vs.

FEDERAL WAY SCHOOL DISTRICT,

Respondent.

CASE 138140-U-24

DECISION 13809-A - PECB

DECISION OF COMMISSION

Gloria Butts, the complainant.

Dani Pfeiffer, Superintendent, for Federal Way School District.

SUMMARY OF DECISION

The issue before the Commission is whether the unfair labor practice (ULP) complaint filed by Gloria Butts against the Federal Way School District states a cause of action. We conclude it does not and affirm the Unfair Labor Practice Administrator.

BACKGROUND

On January 3, 2024, Gloria Butts filed an unfair labor practice complaint against the Federal Way School District (District). Butts alleged that in September 2023, the District had provided training to two employees and, at an unidentified time, denied Butts access to training. Butts alleged that the District had violated her seniority rights when, at an unidentified time, the employer did not interview Butts for three jobs for which she was qualified. Butts was senior to the individuals the District hired. Butts alleged that the District's failure to hire her violated the collective bargaining agreement and her employment contract. Butts alleged that the District's failure to hire her and provide her with training was retaliatory and motivated by racial bias.

On February 6, 2024, ULP Administrator Emily Whitney issued a deficiency notice explaining that the complaint did not allege violations within the Commission's jurisdiction. The ULP Administrator provided 21 days for Butts to file an amended complaint to cure the deficiencies, or the agency would dismiss the complaint.

The agency did not receive additional filings. On April 3, 2024, the ULP Administrator dismissed the complaint. *Federal Way School District*, Decision 13809 (PECB, 2024). On April 5, 2024, Butts filed an appeal with the agency, stating in her email that she did not agree with the decision. Butts asserted that she had replied to the deficiency notice by email. On April 26, 2024, Butts resubmitted the unfair labor practice complaint.

ANALYSIS

Standard of Review

An unfair labor practice complaint is reviewed under WAC 391-45-110 to determine whether the facts, as alleged, state a cause of action under chapter 41.56 RCW. At the preliminary review stage, all alleged facts are assumed true and provable. *Whatcom County*, Decision 8245-A (PECB, 2004). When reviewing the dismissal of a complaint at the preliminary review stage, the Commission reviews only the evidence presented with the complaint that has been considered by the ULP Administrator. *King County*, Decision 11221-A (PECB, 2011).

Butts alleged discrimination based on race. The Commission does not have the authority to remedy allegations of employment discrimination based on race, national origin, or other protected characteristics. *Ben Franklin Transit*, Decision 13649-A (PECB, 2023) (citing *Local 2916, IAFF v. Public Employment Relations Commission*, 128 Wn.2d 375, 379 (1995)); RCW 41.58.020 (empowering the Commission to prevent, minimize, and settle labor disputes); RCW 41.56.010 (stating that the intent of the statute is to provide a basis for employees to select, join, and be represented by labor organizations in matters concerning their employment). To the extent that Butts alleged discrimination based on her race, those allegations are not within the Commission's jurisdiction and do not state a cause of action under chapter 41.56 RCW.

To the extent that Butts has alleged the District discriminated against her in violation of chapter 41.56 RCW, we agree with the ULP Administrator. Butts has not alleged facts necessary to determine that a prima facie case of discrimination for engaging in activity protected by chapter 41.56 RCW exists.

Butts alleged that the District violated its collective bargaining agreement, including by failing to correctly apply seniority. The application of seniority in hiring is an issue of contract

administration. The “Commission has consistently refused to assert jurisdiction of contract violations with the unfair labor practice remedies.” *Clark Public Transportation Benefit Area (C-TRAN)*, Decision 8489-A (PECB, 2004) at 5. Remedies for a contract violation are available through the grievance and arbitration provisions of the collective bargaining agreement. *Id.*; *Bremerton School District*, Decision 5722-A (PECB, 1997).

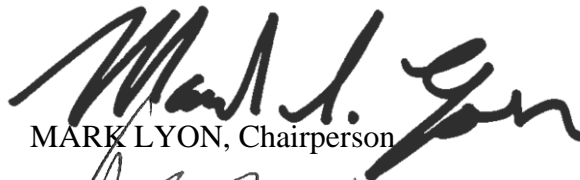
Enforcement of a contract violation is the responsibility of the union. *Ben Franklin Transit*, Decision 13649-A (citing *King County*, Decision 13162-A (PECB, 2020)). The allegations that the District violated the collective bargaining agreement do not state a cause of action.

ORDER

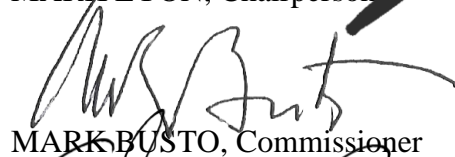
The order of dismissal issued by Unfair Labor Practice Administrator Emily K. Whitney is AFFIRMED.

ISSUED at Olympia, Washington, this 5th day of July, 2024.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARK LYON, Chairperson



MARK BUSTO, Commissioner



ELIZABETH FORD, 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.