

STATE OF WASHINGTON

BEFORE THE MARINE EMPLOYEES' COMMISSION

INLANDBOATMEN'S UNION
OF THE PACIFIC,

Complainant,

v.

WASHINGTON STATE FERRIES,

Respondent.

MEC Case NO. 3-96

DECISION NO. 152 - MEC

ORDER DISMISSING
ADJUSTED COMPLAINT

THIS MATTER came before the Marine Employees' Commission on March 14, 1996, when the Inlandboatmen's Union of the Pacific (IBU) filed an unfair labor practice complaint against the Washington State Ferries (WSF).

IBU's complaint charged WSF with engaging in unfair labor practices within the meaning of RCW 47.64.130(1) by interfering with, restraining or coercing employees in the exercise of rights, and by refusing to bargain collectively with IBU.

Specifically, IBU alleged that WSF repudiated two agreements it made with IBU and unilaterally altered terms and agreements of employment when it 1) violated an interim agreement reached by the parties in MEC Case 8-95 and consolidated cases, by discharging three employees who tested positive for drugs without giving them one opportunity to return to work if they successfully completed a rehabilitation program; and 2) refused to abide by the settlement reached in Terry Oxford's grievance.

The matter was docketed as MEC Case No. 3-96. Letters acknowledging receipt of the ULP complaint were sent to the

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Parties. The Commission subsequently determined, pursuant to WAC 315-45-110, that the facts alleged may constitute unfair labor practices if later found to be true and provable. Commissioner David E. Williams was appointed to act as hearing examiner.

A prehearing/settlement conference was convened on May 2, 1996. A hearing was scheduled for May 28, 1996.

By facsimile on May 24, 1996, IBU counsel Cheryl French notified MEC that the parties had reached an agreement, and requested withdrawal of the complaint. A copy of the agreement is attached hereto.

ORDER

It is hereby ordered that the unfair labor practice complaint, filed by IBU against WSF and docketed as MEC Case No. 3-96, is dismissed.

DATED this 29th day of May 1996.

MARINE EMPLOYEES' COMMISSION

/s/ HENRY L. CHILES, JR. CHAIRMAN

/s/ JOHN P. SULLIVAN, COMMISSIONER

/s/ DAVID E. WILLIAMS, COMMISSIONER

SETTLEMENT AGREEMENT
BETWEEN THE INLANDBOATMEN'S UNION OF THE PACIFIC
AND WASHINGTON STATE FERRY SYSTEM

The Inlandboatmen's Union of the Pacific and the Washington State Ferry System hereby settle the unfair labor practice charge No. 3-96 filed with the Marine Employees' Commission on March 14, 1996 on the following terms:

1. WSF has corrected its failure to pay the grievance settlement it owed to Carolyn Oxford. The payroll department has been directed to pay the settlement amount and Ms. Oxford should receive payment in her next paycheck. Ms. Oxford has been sent a letter informing her that the settlement amount is in the process of being paid.

2. The parties have determined that the attached interim settlement agreement signed pending the decision in MEC Case No. 8-95 and consolidated cases governs the disciplinary action taken on the basis of positive drug tests against three members of the IBU-represented bargaining unit. These employees are Mike Williams, Tony Davila and Mark Waye.

3. The parties agree that under this interim settlement agreement, effective until the date of the MEC decision in Case 8-95 and consolidated case, employees will not be terminated on the basis of a positive drug test if it is the first time the employee has tested positive for drugs while employed by WSF, and if the employee is successful in regaining the employee's merchant mariner's document from the Coast Guard by successfully completing all treatment for drug use required by the Coast Guard. In making this statement, WSF does not waive its right to terminate an employee while the employee is on suspension during treatment for drug use for other conduct independent of the positive drug test. Such a termination would be subject to the grievance arbitration and just cause provision of the contract.

4. Since testing positive for drugs, Mike Williams has surrendered his merchant mariner's document to the Coast Guard, refused to participate in any treatment for drug use, and resigned from WSF. Under these circumstances, the parties agree he has waived any right he may have had under the interim settlement agreement.

5. Tony Davila and Mark Waye will be sent a certified letter, return receipt requested, by WSF informing them that retroactive to the date of their termination, their termination has been converted into an unpaid suspension without pay for thirty (30) calendar days and an unpaid leave of absence without pay for the duration of the time, and that if they are successful in regaining their merchant mariner's document from the Coast Guard by successfully completing all treatment for drug use required by the Coast Guard, their suspension will end and they will be returned to work with full seniority.

6. This agreement was reached for the purpose of resolving this unfair labor practice charge and the resolution of these three cases shall not be precedent setting under the new code of conduct recently agreed to by the parties.

/s/ Dennis Conklin
5/23/96

/s/ Jim Yearby
5/23/96