

STATE OF WASHINGTON

BEFORE THE MARINE EMPLOYEES' COMMISSION

INTERNATIONAL)	MEC Case No.11-99
ORGANIZATION OF MASTERS,)	
MATES AND PILOTS,)	
)	DECISION NO. 214 –MEC
Complainant,)	
)	MEC CHAIRMAN'S
v.)	ORDER OF DISMISSAL
)	
WASHINGTON STATE FERRIES,)	
)	
Respondent.)	

Steven Ross, attorney at law, appearing for and on behalf of the International Organization of Masters, Mates and Pilots.

Christine Gregoire, Attorney General, by David Slown, Assistant Attorney General, appearing for and on behalf of the Washington State Ferries.

This matter came on regularly before the Marine Employees' Commission (MEC) on August 12, 1999, when the International Organization of Masters, Mates and Pilots (MM&P) filed an unfair labor practice complaint against the Washington State Ferries (WSF). MM&P's complaint charged WSF with engaging in unfair labor practices within the meaning of RCW 47.64.130 by interfering with, restraining or coercing employees in exercise of rights and refusing to bargain collectively with the union.

Specifically, MM&P alleges that WSF is currently threatening discipline of MM&P bargaining unit member, Robert Separovich, for failing to attend advanced first aid training. MM&P asserts: "WSF has notified Mr. Separovich that discipline may be imposed, despite several previous representations by WSF (beginning in 1993) that such discipline would not be imposed."

On August 13, 1999, the MEC requested additional information from MM&P, in order to determine whether the facts alleged might constitute an unfair labor practice if later found to be true and provable. MEC received the additional information on August 19, 1999. On August 24, 1999, WSF responded to the amended complaint. On August 25, 1999, MM&P filed a response to WSF's statement.

REVIEW BY CHAIRMAN

Pursuant to WAC 316-45-110, MEC Chairman Henry L. Chiles, Jr. has reviewed the facts alleged in the unfair labor practice charge, as well as the correspondence submitted by both parties clarifying their position on the charges herein and determined that:

1. This matter essentially began in 1993. The information is good for background, but the matters that occurred more than six months prior to the filing of the charge cannot be used for the basis of a charge. WAC 316-45-020. It is too old, time-barred and cannot be considered by this Commission.
2. All Chief Mates for the WSF have completed the advanced first aid course except Mr. Separovich.

Mr. Separovich has been off work on a non-work related injury since July 22, 1998, but has attempted to return to work. He has been advised that he must: 1) provide doctor verification that he is able to perform the essential functions of his position; 2) take part in a pre-disciplinary conference concerning his refusal to participate in advanced first aid training; and 3) attend the advanced first aid training to be eligible to bid a mate job.

3. Mr. Separovich may be anticipating possible discipline, but the fact is that he has not suffered any discipline by WSF. There has been no violation of RCW 47.64.130. Mr. Separovich still has the benefit of the MM&P contractual dispute procedures, if necessary.

ORDER

Based on the reasons set forth herein, Chairman Chiles orders that the charges of unfair labor practice contained in Case 11-99 are dismissed.

RIGHT TO PETITION FOR REVIEW

Pursuant to WAC 316-45-110 and 316-45-350, the MM&P has the right to petition for a review of the Chairman's decision and order to the entire Commission. MM&P may file a Petition for Review with the entire MEC within twenty days following the date of the order issued by Chairman Chiles. The original Petition for Review shall be filed with the Commission at its Olympia office. A copy thereof shall be served on WSF. WSF will have fourteen days following the date on which it is served with a copy of the Petition for Review to file a responsive brief or written argument. In the event no Petition for Review is filed and no action is taken by the Commission on its own motion within thirty days following the Chairman's order, the order shall automatically become the order of the MEC and shall have the same force and effect as if issued by the Commission.

DATED this ____ th day of September 1999.

MARINE EMPLOYEES' COMMISSION

HENRY L. CHILES, JR., Chairman