

STATE OF WASHINGTON  
BEFORE THE MARINE EMPLOYEES' COMMISSION

DISTRICT NO. 1, MARINE  
ENGINEERS' BENEFICIAL  
ASSOCIATION,

Complainant/Grievant,

v.

WASHINGTON STATE FERRIES,

Respondent.

MEC Case No. 29-02 (ULP)  
MEC Case No. 34-02 (Duffy GRV)

DECISION NO. 336 - MEC

ORDER DISMISSING ADJUSTED  
COMPLAINT AND GRIEVANCE

Davies, Roberts and Reid, attorneys, by *Michael McCarthy*, appearing for and on behalf of District No. 1, Marine Engineers' Beneficial Association and Tom Duffy.

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

THESE MATTERS came on regularly before the Marine Employees' Commission as follows:

**MEBA's Unfair Labor Practice Complaint (29-02)**

On January 31, 2002, District No. 1, Marine Engineers Beneficial Association (MEBA) filed an unfair labor practice complaint, MEC Case No. 29-02, against Washington State Ferries (WSF). MEBA's complaint charged WSF with engaging in unfair labor practices within the meaning of RCW 47.64.130(1) by refusing to bargain collectively with representatives of employees.

Specifically, MEBA alleged that WSF unilaterally changed policy without negotiating with the Union. The Union asserted that WSF altered the practice of allowing an employee to claim an additional eight hours vacation pay when he/she worked on a holiday in the last two

years prior to retirement. MEBA contended this was a long-standing practice provided for in the 1999-2001 collective bargaining agreement.

The Commission reviewed the complaint and determined that the facts alleged may constitute an unfair labor practice, if later found to be true and provable. A settlement conference was scheduled for April 11, 2002, with Commissioner John Sullivan as Mediator. Commissioner John Byrne was assigned to act as Hearing Examiner for the hearing scheduled on May 7, 2002.

**MEBA's Request for Grievance Arbitration (Duffy 34-02)**

On April 1, 2002, MEBA filed a request for grievance arbitration, MEC Case No. 34-02, on behalf of Tom Duffy. MEBA asserted that WSF violated Section 7 of the Licensed MEBA/WSF Collective Bargaining Agreement when it denied Tom Duffy the right to claim annual leave on holidays, as a WSF employee within two years of retirement.

MEBA certified that the grievance procedures in the pertinent MEBA/WSF Collective Bargaining Agreement had been utilized and exhausted. In addition, the union certified that the arbitrator's decision shall not change or amend the terms, conditions or application of said collective bargaining agreement and that the arbitrator's award shall be final and binding.

\* \* \*

Following review of the facts alleged in the two cases, the Commission included Case 34-02 in the April 11, 2002, settlement conference already scheduled for Case 29-02. If unresolved following settlement efforts, the two cases were scheduled to be heard simultaneously on May 7, 2002.

The parties did not reach an agreement during the April 11 settlement conference. On April 18, 2002, joint counsel requested a postponement of the hearing for at least six weeks, to allow for fact-finding necessary to settlement discussions. Hearing Examiner Byrne granted the

request. The hearing was continued to September 17, 2002. WSF filed its Answer to the complaint on September 4.

On September 9, 2002 MEBA withdrew both the grievance and unfair labor practice charge. (The hearing was cancelled.)

**ORDER**

It is hereby ordered that

1. The unfair labor practice complaint, filed by District No. 1 MEBA against WSF and docketed as MEC Case No. 29-02, be dismissed.
2. The request for grievance arbitration, filed by MEBA and docketed as MEC Case No. 34-02, be dismissed.

DATED this \_\_\_\_ day of September 2002.

MARINE EMPLOYEES' COMMISSION

\_\_\_\_\_  
JOHN NELSON, Chairman

\_\_\_\_\_  
JOHN SULLIVAN, Commissioner

\_\_\_\_\_  
JOHN BYRNE, Commissioner