

Kennewick School District, Decision 6287 (PECB 1998)

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

KENNEWICK SCHOOL DISTRICT,	)	
	)	
Employer.	)	
-----	)	
NANCY E. JULSON,	)	CASE 13670-U-98-3343
	)	
Complainant,	)	DECISION 6287 - PECB
	)	
vs.	)	
	)	
PUBLIC SCHOOL EMPLOYEES OF	)	
WASHINGTON,	)	
	)	
Respondent.	)	ORDER OF DISMISSAL
	)	
_____	)	

On January 26, 1998, Nancy E. Julson filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, alleging that Public School Employees of Washington (union) committed various unfair labor practices. Specifically, Julson alleged the union interfered with her rights by suggesting that she resign due to a conflict of interest, and that the union gave her and other print shop employees incorrect seniority dates.¹

¹ The complaint only named the union as respondent, and was not understood to make any claim against her employer.

The complaint was reviewed under RCW 34.05.419(2), which requires administrative agencies to:

Examine the application, notify the applicant of any obvious errors or omissions, [and] request any additional information the agency wishes to obtain and is permitted by law to require.

In making such reviews, the Executive Director assumes under WAC 391-45-110 that all of the facts alleged in the complaint are true and provable. The question at hand is whether the complaint states a claim for relief available through unfair labor practice proceedings before the Commission.

A deficiency notice was issued on April 8, 1998, advising Julson of several problems with her complaint, as detailed below. Julson was given 14 days to file and serve an amended complaint which stated a cause of action, or face dismissal. Nothing further has been received from Julson.

Insufficient Facts About Request to Resign

The complaint alleges an unidentified union representative suggested at an unspecified time that Julson resign from an unidentified position due to a conflict of interest about which no details were given. Thus:

- The complaint failed to meet the requirements of WAC 391-45-050(2), by failing to identify the participants in occurrences;²
- There is no way of determining whether the conversation occurred during the six months preceding the filing of the complaint;³ and
- There is also no way of determining whether Julson was being asked to resign from her position with the employer or some union office.⁴

The Executive Director must act on the basis of what is contained within the four corners of the statement of facts, and is not at liberty to fill in gaps or make leaps of logic. It is not possible

² As filed, this complaint would not have put the respondent union on notice of the charges against it. Accordingly, even if this defect had not been called to the complainant's attention under WAC 391-45-110, the case would have been ripe for a motion to make the complaint more definite and certain under WAC 391-45-250. Such a motion would properly have been granted.

³ RCW 41.56.160 provides, in pertinent part:

[A] complaint shall not be processed for any unfair labor practice occurring more than six months before the filing of the complaint with the commission.

⁴ If it were the latter, no cause of action would exist, regardless of timeliness, because the Commission avoids interfering with the internal affairs of unions. Tacoma School District, Decision 5465-E (EDUC, 1997); University of Washington, Decision 4668 (PECB, 1994).

to conclude from the materials now on file that a cause of action exists regarding this allegation. In the absence of an amendment curing these problems identified in the deficiency notice, the allegation must be dismissed.

Seniority Date Allegations Insufficient

Lack of Standing to Complain on Behalf of Others -

The complaint asserts the union denied Julson *and other print shop employees* their proper seniority dates. An employee may file a complaint charging unfair labor practices on his or her own behalf, but lacks the legal power to enforce the rights of other employees. C-TRAN, Decision 4005 (PECB, 1992). Thus, even if this complaint otherwise stated a cause of action, any processing of this case would have to be limited to Julson's claims, as an individual.

Seniority Date Dispute Untimely -

The complaint alleges the union followed an inconsistent practice when seniority dates were assigned to groups of employees newly included in the bargaining unit. The complaint is not specific, but a document attached to the complaint suggests Julson's seniority date was established on December 3, 1992. That date far exceeds the six month time period before filing the complaint. This allegation is untimely and must be dismissed.

NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices filed in the above-entitled matter is hereby DISMISSED.

Issued at Olympia, Washington, this 13TH day of May, 1998.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

A handwritten signature in cursive script, appearing to read "Marvin L. Schurke", written in dark ink.

MARVIN L. SCHURKE, Executive Director

This order will be the final order of the agency unless appealed by filing a petition for review with the Commission pursuant to WAC 391-45-350.