

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

UNITED STAFF NURSES,)	
LOCAL 141,)	CASE 10947-U-94-2547
)	
Complainant,)	DECISION 4815 - PECB
)	
vs.)	
)	ORDER ALLOWING AMENDMENT
KENNEWICK GENERAL HOSPITAL,)	OF COMPLAINT
)	
Respondent.)	
)	
)	
)	

Hafer, Price, Rinehart and Robblee, by M. Lee Price, Attorney at Law, appeared on behalf of the complainant.

Conner, Gravrock and Treverton, by William W. Treverton, Attorney at Law, appeared on behalf of the respondent.

On August 9, 1994, the United Staff Nurses, Local 141, filed a "Motion for Second Amendment to Charge" based on evidence presented at the June 23 and 24, 1994 hearing on the original and first amended complaint charging unfair labor practices. The motion claimed that the amendment related to information which the complainant was unaware of until it was brought out during testimony at the hearing. Additionally, it alleged that the amendment related to the original charge and showed that the respondent intended to continue its original course of action without regard to its collective bargaining obligations.

On August 29, 1994, Kennewick General Hospital filed its opposition to granting the second amendment based on two theories.¹ . First,

¹ The respondent had attempted earlier to file its motion by electronic telefacsimile transmission ("fax") with the Commission. However, the Model Rules of Procedure adopted by the Chief Administrative Law Judge (Chapter 10-08 WAC) distinguish "filing" from "service", and permit the use of fax only for service. WAC 10-08-110.

that the evidence was known or should have been known by the complainant at the time of the hearing. Second, that there should be some finality to the litigation process.

The Examiner has the authority to rule on amendments under WAC 391-45-070.

The respondent has not detailed how the information which is the basis for the second amendment "was known or should have been known" by the complainant prior to the hearing. The Commission has no procedures for discovery prior to a hearing. The respondent correctly points out that the interests of justice require that there be some finality to the litigation process. However, the Commission must ensure that the collective bargaining process is used correctly so as to not deny public employees their rights under the Public Employees Collective Bargaining Act, Chapter 41.56 RCW. The balance is secured by the statute of limitations contained in RCW 41.56.160.

ORDER

The complainant's "Motion for Second Amendment to Charge" is granted.

The respondent is hereby directed to file its answer to the second amendment within 21 days of this order.

The briefing schedule is suspended until the answer is evaluated.

A decision regarding reopening the evidentiary record in this matter will depend on the contents of the respondent's answer.

Issued at Olympia, Washington, this 29th day of August, 1994.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

A handwritten signature in cursive script, reading "Katrina I. Boedecker".

KATRINA I. BOEDECKER, Examiner