

STATE OF WASHINGTON  
BEFORE THE MARINE EMPLOYEES' COMMISSION

INLANDBOATMEN'S UNION  
OF THE PACIFIC,

Complainant,

v.

WASHINGTON STATE DEPARTMENT  
OF TRANSPORTATION, FERRIES  
DIVISION,

Respondent.

MEC CASE NO. 18-10

DECISION NO. 581 - MEC

ORDER OF DISMISSAL  
REJECTING UNFAIR LABOR  
PRACTICE COMPLAINT

*Dennis Conklin*, Regional Director, appearing for the Inlandboatmen's Union of the Pacific (IBU).

Rob McKenna, Attorney General, by *Don Anderson*, Assistant Attorney General, appearing for the Washington State Department of Transportation, Ferries Division (WSF).

THIS MATTER came before the Marine Employees' Commission (MEC) on April 30, 2010 when the Inlandboatmen's Union filed an unfair labor practice complaint against the Washington State Ferries. The matter was docketed as MEC Case No. 18-10.

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; encouraging or discouraging membership in an employee organization by discrimination in regard to: hiring, tenure, any term or condition of employment; and refusing to bargain collectively with representatives of employees.

Specifically, IBU alleged that WSF was discriminating against Ms. Nanette Lewis because she filed a lawsuit within the provisions of the collective bargaining agreement, because

she has a permanent disability and because of her race. IBU charged WSF with making a unilateral change to Rule 30.12 when it required Ms. Lewis to be assessed by a Medical Review Officer. Rule 30.12 provides for an assessment when an employee is on a medical leave of absence, which Ms. Lewis was not. In addition, IBU charged WSF with retaliating against Ms. Lewis by requiring her to complete new medical accommodation paperwork when WSF lost the original.

### **DETERMINATION BY COMMISSION**

Pursuant to WAC 316-45-110, the Commission has reviewed IBU's complaint, Case 18-10, and determined that the facts as alleged do not constitute an unfair labor practice(s) under RCW 47.64.130 and WAC 316-45-003. The facts contained in IBU's complaint state violations of the collective bargaining agreement between WSDOT/WSF and IBU—specifically, Rule 30.12-Fit for Duty and Rule 5- Non-Discrimination. They would be more appropriately addressed under the parties' contractual grievance procedures.

### **ORDER**

It is hereby ordered that the unfair labor practice complaint, filed by IBU against WSF and docketed as MEC Case 18-10 is dismissed.

### **RECONSIDERATION**

Pursuant to the provisions of RCW 34.05.470, any party may file a petition for reconsideration with the Commission within ten days from the date this final order is mailed. Any petition for reconsideration must state the specific grounds for the relief requested. Petitions that merely restate the party's previous arguments are discouraged. A petition for reconsideration does not stay the effectiveness of the Commission's order. If no action is taken by the

Commission on the petition for reconsideration within twenty days from the date the petition is filed, the petition is deemed to be denied, without further notice by the Commission. A petition for reconsideration is not a prerequisite for seeking judicial review.

DATED this 14th day of May 2010.

MARINE EMPLOYEES' COMMISSION

/s/ JOHN SWANSON, Chairman

/s/ PATRICIA WARREN, Commissioner

/s/ JOHN COX, Commissioner