

STATE OF WASHINGTON
BEFORE THE MARINE EMPLOYEES' COMMISSION

OFFICE AND PROFESSIONAL
EMPLOYEES INTERNATIONAL
UNION, LOCAL 8,

Complainant,

v.

WASHINGTON STATE FERRIES,

Respondent.

MEC CASE NO. 40-05

DECISION NO. 483 - MEC

ORDER CLOSING
SETTLED COMPLAINT

Shannon Halme, Union Representative, appearing for Office and Professional Employees International Union, Local 8.

Robert McKenna, Attorney General, by *David Slown*, Assistant Attorney General, appearing for Washington State Ferries.

THIS MATTER came on regularly before the Marine Employees' Commission (MEC) on March 28, 2005, when Shannon Halme, representative for Office and Professional Employees International Union, Local 8, (OPEIU), filed an unfair labor practice complaint, MEC Case No. 40-05, against the Washington State Ferries (WSF).

OPEIU'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; dominating or interfering with the formation or administration of an employee organization; encouraging or discouraging membership in an employee organization by discrimination in regard to: hiring, tenure, any term or condition of employment; and discharging or otherwise discriminating against an employee after the employee has filed charges or given testimony concerning subjects covered by chapter 47.64 RCW.

Specifically, OPEIU alleged that WSF repudiated the contract. On November 24, 2004, OPEIU initiated grievance action against WSF for three alleged contract violations: 1) assigning Dispatcher and Crew Dispatch Coordinator work to non-bargaining unit personnel; 2) unilaterally changing the long standing Monday-Friday work schedules of the Crew Dispatch Coordinators without noticing the Union, and 3) consistently exceeding timelines for and utilization of temporary employees. OPEIU alleged that on December 27, 2004, WSF issued a Step 3 response to the grievance which addressed some concerns, but failed to accept responsibility for violating the contract and implied that WSF would continue to violate the contract for mitigating business needs. Further, OPEIU maintained that WSF continued to assign bargaining unit work to non-bargaining unit personnel, constituting blatant disregard of the parties' contract.

By letter on March 30, 2005, WSF requested the MEC dismiss the complaint. On April 27, the MEC pointed out to OPEIU that the statement of facts contained in its complaint was identical to that in its request for grievance mediation, MEC Case 30-05 (filed on January 10, 2005). The Commission notified OPEIU that it would defer to arbitration, holding the complaint in abeyance until resolution of the grievance.

The grievance, Case 30-05, was not resolved during a May 26, 2005 settlement conference with Commissioner Ford and the MEC does not have authority under the OPEIU contract to conduct the arbitration. Nothing further was heard on these cases for several months. In a letter to OPEIU on November 2, Chairman Swanson advised that if the Commission heard nothing from the Union by November 16, it would assume the grievance was settled and dismiss the complaint. On November 10, OPEIU Representative Shannon Halme withdrew Case 30-05 (grievance) and requested that Case 40-05 (this complaint) be scheduled for hearing. The Commission reviewed and accepted the complaint for processing.

A hearing was scheduled for June 14, 2006 before designated Hearing Examiner John Sullivan. The parties arrived at the hearing room on June 14, but requested some time to discuss settlement options. The hearing was never convened; the parties successfully reached an agreement.

Commissioner Sullivan forwarded a copy of the signed agreement (which constitutes a request for withdrawal of the complaint) to the MEC office. That agreement, received June 16, 2006, is appended to and becomes a part of this Order by reference.

ORDER

It is hereby ordered that the unfair labor practice complaint, filed by OPEIU, Local 8 against WSF and docketed as MEC Case No. 40-05, is closed in acknowledgment of the parties' settlement agreement.

DATED this 28th day of June 2006.

MARINE EMPLOYEES' COMMISSION

/s/ JOHN SWANSON, Chairman

/s/ JOHN SULLIVAN, Commissioner

/s/ ELIZABETH FORD, Commissioner

SETTLEMENT AGREEMENT
MEC Case No. 40-05

IN FULL AND COMPLETE SETTLEMENT of all issues arising out of MEC Case No. 40-05, the parties, The Office and Professional Employees' International Union, (OPEIU) and Washington State Ferries (WSF) to hereby agrees as follows:

WSF Agrees:

1. That employee dispatching is work subject to the jurisdiction of the OPEIU.
2. That dispatching shall be done by management and supervisory personnel only when an OPEIU-represented dispatcher is not reasonably available to do the work.
3. To hire a temporary employee into the position of dispatcher within a reasonable period of time, subject to the provisions of the parties' collective bargaining agreement and in particular to Article 5, Section 5.6(1)(b) of that agreement.
4. To continue to seek approval for another full-time equivalent (FTE) hiring authorization for a permanent employee in the dispatch position, and to fill that position if and when it is approved.

The OPEIU Agrees:

1. To withdraw MEC Case No. 40-05. A copy of this Agreement shall constitute a request for withdrawal, and may be presented by any party.

/s/ Shannon Halme
For the OPEIU

6/14/06

/s/ Paul Elsey
For WSF

6/14/06