

STATE OF WASHINGTON
BEFORE THE MARINE EMPLOYEES' COMMISSION

DAN GAGE,

Complainant,

v.

GENERAL TEAMSTERS 174 and
WASHINGTON STATE FERRIES,

Respondents.

MEC CASE NO. 6-03

DECISION NO. 354 - MEC

ORDER OF DISMISSAL

APPEARANCES

Carla Kiiskila, Attorney, for complainant, Dan Gage.

Davies, Roberts and Reid, by *Thomas Leahy*, Attorney, for intervenor Teamsters Local 174.

Christine Gregoire, Attorney General, by *David Slown*, Assistant Attorney General, for Washington State Ferries.

THIS MATTER came on regularly before the Marine Employees' Commission (MEC) on July 15, 2002 when Carla Kiiskila, counsel for Dan Gage, filed an unfair labor practice complaint against Teamsters Local 174 (Teamsters) and the Washington State Ferries (WSF). (On July 12, 2002, Ms. Kiiskila initially filed the complaint without documentation by facsimile. The hard copy filed on July 15 amended the requested remedy and provided supplementary documents.) The matter was docketed as MEC Case No. 6-03.

Charges Filed Against WSF

Mr. Gage'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 formation or administration of employee

organization; and encouraging or discouraging membership in employee organization by discrimination in regard to: hiring, tenure, any term or condition of employment.

Specifically, Mr. Gage alleged that WSF terminated his employment, then later stated he was not discharged, but laid-off and did not have access to the grievance procedure because he was not a full-time employee.

Charges Filed Against Teamsters Local 174

Mr. Gage's complaint charged Teamsters with engaging in unfair labor practices within the meaning of RCW 47.64.130(2) by restraining or coercing employees in the exercise of rights guaranteed by chapter 47.64 RCW.

Specifically, Mr. Gage alleged that Teamsters misidentified issues involved in Mr. Gage's loss of employment; accepted WSF's position that Mr. Gage did not have access to the grievance procedure, without independent investigation of the law or facts; and acquiesced without investigation when WSF altered its characterization of Mr. Gage's termination in retaliation for Mr. Gage's union activities.

BACKGROUND

Following initial review of the complaint, the Commission determined that the facts alleged in that portion of the complaint filed against Teamsters 174, may constitute an unfair labor practice, if later found to be true and provable. Separately, on September 22, 2002, the Commission issued an Order of Dismissal rejecting that portion of the ULP Complaint Against Washington State Ferries as lacking a factual basis for a ULP and as being untimely, Decision No. 332-MEC. (On September 27, 2002, Mr. Gage filed a Request for Review of MEC's Decision dismissing the charge against WSF. MEC denied the request on October 29, 2003.)

On October 2, 2002, Teamsters' counsel, Thomas Leahy, requested the October 4 hearing scheduled in Mr. Gage's grievance, MEC Case 30-02, be continued and that the grievance and

unfair labor practice complaint be consolidated for hearing. Counsel Carla Kiiskila also requested a continuance of the hearing. MEC granted both requests.

Commissioner John Byrne was designated to act as Hearing Examiner/Arbitrator and a consolidated hearing scheduled for January 23, 2003. On January 8, 2003, Teamsters filed its answer to the complaint.

On January 21, 2003, Mr. Gage and Teamsters 174 reached an agreement resolving Case 6-03. Mr. Gage withdrew his ULP charge against the Teamsters. In response to language in the agreement, MEC acknowledged and accepted Mr. Gage's withdrawal, with prejudice, and dismissed the ULP charge against Teamsters Local 174, stating that the formal Order of Dismissal would follow.

ORDER

It is hereby ordered that the unfair labor practice complaint, filed by Dan Gage against Teamsters 174 and docketed as MEC Case No. 6-03 be dismissed. Together with the earlier Order of Dismissal regarding that portion of the charge relating to the Washington State Ferries, this Order ends MEC Case No. 6-03 in its entirety.

DATED this 24th day of January 2003.

MARINE EMPLOYEES' COMMISSION

JOHN NELSON, Chairman

JOHN SULLIVAN, Commissioner

JOHN BYRNE, Commissioner