

STATE OF WASHINGTON
BEFORE THE MARINE EMPLOYEES' COMMISSION

DISTRICT NO. 1, MARINE
ENGINEERS' BENEFICIAL
ASSOCIATION
and
INLANDBOATMEN'S UNION
OF THE PACIFIC,

Complainants,

v.

WASHINGTON STATE FERRIES,

Respondent.

MEC Case No. 8-02

MEC Case No. 9-02

DECISION NO. 326 - MEC

ORDER DISMISSING
ADJUSTED COMPLAINTS

Davies, Roberts and Reid, attorneys, by *Todd Lyon*, appearing for and on behalf of District No. 1, Marine Engineers' Beneficial Association.

Schwerin, Campbell and Barnard, attorneys, by *Dmitri Iglitzin*, appearing for and on behalf of the Inlandboatmen's Union of the Pacific.

Christine Gregoire, Attorney General, by *David Slown*, Assistant Attorney General, appearing for and on behalf of Washington State Ferries.

THESE MATTERS came on regularly before the Marine Employees' Commission as follows:

MEBA Unfair Labor Practice Complaint (8-02):

On October 12, 2001, District No. 1, Marine Engineers Beneficial Association (MEBA) filed an unfair labor practice complaint, MEC Case No. 8-02, against WSF. MEBA'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; and refusing to bargain collectively with representatives of employees.

ORDER DISMISSING
ADJUSTED COMPLAINTS -1-

Specifically, MEBA alleged that WSF implemented a change in its extended sick leave policy without notice to or bargaining with the Union. MEBA asserted that the policy change required: a written request for extended leave from employees, with the implication that a decision would be made at the time the form was received whether or not leave would be extended; and completion of an Essential Job Function analysis.

The Commission reviewed the complaint and determined that the facts alleged may constitute an unfair labor practice, if later found to be true and provable. A settlement conference was scheduled for January 16, 2002, with Commissioner John Byrne as Mediator. Chairman John Nelson was assigned to act as Hearing Examiner at the hearing scheduled for January 30, 2002.

IBU Unfair Labor Practice Complaint (9-02):

On November 15, 2001, IBU filed an unfair labor practice complaint, MEC Case No. 9-02, against WSF. IBU's complaint charged WSF with engaging in unfair labor practices within the meaning of RCW 47.64.130 by refusing to bargain collectively with representatives of employees.

Specifically, IBU alleged that WSF unilaterally altered terms and conditions of the contract when it implemented new physical standards on May 17, 2001. IBU asserted that the new standards required the employee to have his doctor complete a physical standards form, following injury or illness, to verify that the employee is able to perform all activities required in WSF's policy. IBU contended that the long-standing practice has been for an employee to provide a 100 percent "fit for duty" slip from the doctor.

Following review, the Commission determined that the facts alleged may constitute an unfair labor practice, if later found to be true and provable.

PROCEDURAL BACKGROUND

Upon review of the facts and principles of law involved in MEC Cases 8-02 and 9-02, the Commission ordered them consolidated for the purpose of conducting a settlement conference and hearing. WAC 316-02-560.

The January 16, 2002, settlement conference previously scheduled in Case 8-02 remained scheduled for the consolidated cases. The hearing date for the consolidated cases was continued to February 12, 2002. During the January 16 settlement conference with Commissioner Byrne, the parties reached an Interim Agreement in which they agreed to meet again on February 12, without a mediator, to discuss specific items outlined in the agreement. The hearing was continued to March 21, 2002.

At AAG David Slown's request on March 7, 2002, the due-date for WSF's answer to the complaints was extended to March 12. On March 12, the parties jointly requested that the MEC cancel the March 21 hearing, as well as the due-date for WSF's answer to the complaints. WSF, MEBA and IBU pointed out that they had made substantial progress and intended to use the March 21 date for continued settlement discussion. Hearing Examiner Nelson granted the request.

The parties were unable to meet on March 21 as planned, and rescheduled to continue discussions on June 12, 2002. The Commission directed MEC staff to reschedule a hearing date in Cases 8-02 and 9-02. The consolidated hearing was continued to July 16, 2002.

* * *

The parties met again on June 12, at which time MEBA and WSF reached and signed an agreement resolving the issue. IBU chose to have counsel (not present) review the agreement before signing.

On June 27, 2002, the parties provided MEC with a fully signed copy of their settlement agreement, which constitutes a request for withdrawal of the complaints, MEC Case Nos. 8-02 and 9-02. The signed agreement is appended to and becomes a part of this Order by reference.

ORDER

It is hereby ordered that

1. The unfair labor practice complaint, filed by District No. 1 MEBA against WSF and docketed as MEC Case No. 8-02, be dismissed.
2. The unfair labor practice complaint, filed by the IBU against WSF and docketed as MEC Case No. 9-02, be dismissed.

DATED this ____ day of July 2002.

MARINE EMPLOYEES' COMMISSION

JOHN NELSON, Chairman

JOHN SULLIVAN, Commissioner

JOHN BYRNE, Commissioner