

STATE OF WASHINGTON
BEFORE THE MARINE EMPLOYEES' COMMISSION

INLANDBOATMEN'S UNION)	MEC Case No. 9-91
OF THE PACIFIC,)	
)	DECISION NO. 76 - MEC
Complainant,)	
)	
v.)	ORDER OF DISMISSAL
)	
WASHINGTON STATE FERRIES,)	
)	
Respondent.)	
_____)	

Schwerin, Burns, Campbell and French, attorneys, by John Burns, appearing for and on behalf of the Inlandboatmen's Union of the Pacific.

Kenneth Eikenberry, Attorney General, by Jeffrey D. Stier, Assistant Attorney General, for and on behalf of Washington State Ferries.

THIS MATTER came before the Marine Employees' Commission for consideration of notice from the Inlandboatmen's Union of the Pacific (IBU) that it was withdrawing its charge of an unfair labor practice by Washington State Ferries (WSF).

On October 29, 1991, IBU filed an unfair labor practice complaint charging WSF with interfering with, restraining or coercing employees (viz., Dennis Deliz) of their rights and with refusing to bargain collectively with IBU. Specifically, IBU complained that WSF had unilaterally altered terms and conditions of employment, in essence creating a new category of "discipline"—suspension without pay, without statement of reasons and without a determination that would generate the right to appeal through the grievance process.

On November 25, 1991, the Marine Employees' Commission (MEC) considered the complaint, a written submission from WSF, and oral argument from IBU. WAC 316-45-110. The Commission determined that the facts, if found to be true and provable, may constitute an unfair labor practice.

Commissioner Louis O. Stewart was appointed hearing examiner. WAC 316-45-130. He served notice on the parties that a prehearing conference was scheduled for January 23, 1992, and a hearing for February 18, 1992. WAC 316-45-150.

On January 22, 1992, IBU filed a statement that a settlement had been reached regarding the suspension of Dennis Deliz. IBU stated, however, that it continues to maintain that the WSF "delay in making a decision regarding Mr. Deliz's discipline was unlawful, and continues to protest the discipline of an employee as a result of a positive drug test where there is no evidence that the detected substance had any effect on ... work performance ... [and] does not waive its position on those points, and will continue to protest similar actions by [WSF] in the future." However, since the controversy regarding the discipline of Mr. Deliz is settled and is therefore moot, IBU is withdrawing its complaint.

Having read and considered the entire record, the Marine Employees' Commission now enters the following decision and order, under the authority of WAC 316-45-150.

DECISION AND ORDER

1. The statement of IBU withdrawing its unfair labor practice complaint, based upon the discipline of Dennis Deliz can be and hereby is considered to be a motion for dismissal.

2. The motion for dismissal is hereby granted; and MEC Case No. 9-91 is dismissed, with prejudice regarding the discipline of Dennis Deliz, but without prejudice regarding the charges of unilateral disciplinary procedures.

DONE this 29th day of January 1992.

MARINE EMPLOYEES' COMMISSION

/s/ DAN E. BOYD, Chairman

/s/ DONALD E. KOKJER, Commissioner

/s/ LOUIS O. STEWART, Commissioner