

IN RE:

MARY SHUBERT, ET AL

01 - Elec. App. – 029 (KC)

This matter is an appeal from the Election Administrator’s decision 2001 EAD 119, issued January 31, 2001. The hearing was requested by Mary Shubert, a member of Teamsters Local Union 115 in Philadelphia, Pennsylvania and a candidate for delegate from that Local Union on the “Members First” slate.

A hearing was held before me on February 7, 2001. The following persons were heard by way of teleconference: Jeffrey J. Ellison, Esq. and Lois Tuttle, Esq. for the Election Administrator’s Office (“EA”); Ms. Shubert; Mr. Gerald McNamara, a candidate for delegate on the Members First Slate and a member of Local Union 115; and Mr. James Smith, Jr., the protestor, a candidate for delegate on the Local 115 Members First Slate and a member of Local Union 115. No further submissions were received on this matter.

Ms. Smith’s protest alleges that Ms. Shubert is not eligible to run for delegate because she had not paid dues in a timely matter for nine out of the last twenty four months in violation of the eligibility requirements of Article VI, Section 1(a)(1) of the Rules¹. Ms. Shubert does not deny the late payments, but claims that because the Local Union, which is in trusteeship, denied her copies of the IBT Constitution, local bylaws and copies of labor contracts

¹ There was another protest filed against Ms Shubert by Mr. Alvaro Quinones, a candidate for delegate on the Teamsters United slate, which alleged that Ms. Shubert was ineligible because she was not working at the craft during the time she was on Workers’ Compensation. The EA found that a member has not violated the Rules simply because he or she has suffered a work related injury which requires them to be out on workers’ compensation and therefore denied his protest against Ms. Shubert. This protest was not a subject of appeal at this hearing.

she was unaware of the Rules' requirement of twenty four consecutive months of continuous good standing as a necessary condition for candidacy.

The EA's investigation showed that on January 27, 2001, three weeks after the Local Union nomination meeting, Ms. Shubert requested a waiver under Article VI, Section 2(i), which allows either the EA or the General Executive Board to use its discretion to waive any or all of the eligibility requirements. In this case the EA did not grant a waiver because Ms Shubert's request was not submitted in time for a thorough investigation of the merits before the nominations meeting. Furthermore, since the Local Union Plan was posted in early December 2000, along with a notice of eligibility criteria, Ms. Shubert clearly had the opportunity to review the eligibility requirements.

Ms. Shubert has provided no evidence to controvert the findings of the EA. The EA had demonstrated a sound and adequate basis for not granting a waiver in this case. Accordingly, I affirm his decision and find Mary Shubert to be ineligible to run for delegate.

_____/s/Kenneth Conboy_____
Kenneth Conboy
Election Appeals Master

Dated: February 14, 2001