

IN RE:

KEN WENHAM

01 - Elec. App. – 049(KC)

This matter is an appeal from the Election Administrator's (the "EA") decision 2001 EAD 221, issued March 7, 2001. The hearing was requested by Kenneth Wenham, the protestor, a delegate candidate and member of Teamsters Local Union 690 in Spokane, Washington.

A hearing was held before me on March 21, 2001. The following persons were heard by way of teleconference: Jeffrey J. Ellison, Esq. for the Election Administrator's Office; Mr. Wenham; and David Balleu, Esq. as counsel on behalf of Local Union 690. No additional submission was received by this office.

In his protest, Mr. Wenham claims that Article II, Section 6(a) of the Rules was violated when the list of candidates nominated from Local Union 690 was not timely posted at his worksite. Under the Rules, the Local Union was required to post the list no later than five days after the January 9, 2001 nomination meeting. When Mr. Wenham returned to work from vacation on January 22, 2001, he discovered the list had not been posted. After he reported the missing list to the Local Union officials, it was posted the same day.

The EA determined there was no violation of the Rules in this case. Mr. Wenham did not contend he was disadvantaged or unable to distribute campaign material and inform the membership of his candidacy due to the late posting. The EA found no evidence to suggest the

missing notice led to the membership's ignorance about the election, or affected its outcome, especially since the notice was posted nearly three weeks before the ballots were mailed.

Mr. Wenham stated in his appeal request that he was unable to prove he or his slate was disadvantaged by the late posting or that the local membership was uninformed about the election. He simply states that since the notice was not posted timely, there was a violation of the Rules and there should be consequences to that violation.

I concur with the EA's analysis of the facts in this matter. Although technically a violation of the Rules occurred, I agree that a rigid application of the Rules is not warranted in this case, since there was no finding of prejudice to either Mr. Wenham's candidacy or to the electorate at large. Accordingly, I affirm the EA's decision in denying the protest.

s/Kenneth Conboy  
Kenneth Conboy  
Election Appeals Master

Dated: March 27, 2001