

IN RE:

ROBERT HIGDON

01 - Elec. App. – 069 (KC)

This matter is an appeal from the Election Administrator's (the "EA") decision 2001 EAD 325, issued April 24, 2001. The hearing was requested by Robert Higdon, the protestor, alternate delegate candidate and member of Teamster Local Union 734 in Chicago, Illinois.

A hearing was held before me on May 4, 2001. The following persons were heard by way of teleconference: Jeffrey J. Ellison, Esq. for the Election Administrator's Office and Mr. Higdon. Additional submissions were received from Mr. Higdon on May 4 and May 7, 2001.

Mr. Higdon claims Best Foods Baking Company ("Best Foods") retaliated against him by suspending and ultimately discharging him from his job as a route driver because of his delegate candidacy. He argues the discharge was without merit and that Best Foods wants to interrupt his dues checkoff to render him ineligible to run in the delegate election. He accuses them of trying to discredit his character to the membership by these charges so that he, who has been critical of Best Foods' policies in the past, is unable to run for political office.

The EA's investigation showed that Mr. Higdon collected cash for baked goods delivered to certain customers along his route. On November 10, 2001, a manager warned Mr. Higdon that he was to turn in these cash receipts on a daily basis. On November 13, 2000, Best

Foods posted a notice requiring daily turn in of cash receipts. Three months later, Mr. Higdon was suspended for failure to pay arrearage on his cash receipts in the amount of \$3,723.32¹.

The EA concluded that the employer's motivation to discharge Mr. Higdon was not politically motivated but because he violated company policy² and denied the protest. He stated that Mr. Higdon failed to provide to him with any evidence of a link between his discharge and his status as a delegate candidate.

During the appeal hearing, I asked Mr. Higdon several times to provide me with any evidence of a connection between his election activity and his suspension or discharge. He referred to other drivers whom he claimed had not turned in their receipts daily and were not disciplined, but the EA's investigation showed that these drivers were not in a similar situation to Mr. Higdon – one had no cash receipts and the other turned in his receipts on a daily basis. Mr. Higdon also told me of a statement made about him by Mr. Garcia, a supervisor, who stated that, "... the company is going after Higdon again" as proof of Best Foods' retaliation.

I am satisfied that the EA's facts and analysis in this matter are correct. I am not persuaded by Mr. Higdon that there is any evidence connecting his discharge to his political activity. Accordingly, I affirm the EA's decision in this matter in all respects.

_____/s/Kenneth Conboy _____

Kenneth Conboy
Election Appeals Master

Dated: May 14, 2001

¹ An audit report presented at Mr. Higdon's suspension hearing showed that Mr. Higdon actually owed \$2,658.84. This amount was paid to Best Foods on February 26, 2001. Mr. Higdon grieved his suspension and discharge and both grievances are still pending.

² Robert Brooks, vice president and business representative of Local Union 734 and Mr. Higdon's representative at the grievance hearing, told the EA's investigator that he diligently processed Mr. Higdon's grievances, and that the employer asserted that Mr. Higdon was the only employee to accumulate over a twenty-three month period cash receipts.