

**OFFICE OF THE ELECTION SUPERVISOR
for the
INTERNATIONAL BROTHERHOOD OF TEAMSTERS**

IN RE: ELIGIBILITY OF) Protest Decision 2006 ESD 69
BRIDGET JENNINGS,) Issued: February 10, 2006
CURTIS CUNNINGHAM,) OES Case No. E-06-021-012606-HQ
DAVID JOHNSON, and)
JOHNNY WADE MEEKS,)
Local 71.)

)

Ernest Wrenn, a member of Local Union 71, filed an eligibility protest pursuant to Article XIII, Section 2(b) of the Rules for the 2005-2006 IBT International Union Delegate and Officer Election ("Rules"). He alleged that Bridget Jennings, Curtis Cunningham, David Johnson and Johnny Wade Meeks are ineligible for election as delegate or alternate delegate to the 2006 IBT Convention under the *Rules*.

Election Supervisor representative Steven R. Newmark investigated this protest.

Findings of Fact

At the nomination meeting held January 13, 2006, Jennings, Cunningham, Johnson and Meeks were nominated for delegate and alternate delegate. The protest alleges they are ineligible for these positions because they failed to satisfy the 24-month continuous good standing requirement.

TITAN records for Meeks show timely payment of dues via check-off authorization for all 24 months of the eligibility period. Jennings' TITAN record shows the same, except for November 2005; checkstubs for that month show sufficient wages to fund her dues.

Cunningham's dues record shows deposit of a withdrawal card in January 2004 followed by sufficient work in that month to fund a dues payment by check-off authorization. Following January 2004, the dues deducted from Cunningham's wages in any given month during the eligibility period paid his dues obligation for the succeeding month.

Johnson's dues record shows that he signed a check-off authorization on January 30, 2004. However, the bargaining unit to which he belonged was newly organized, and the employer, Charlotte Transit, did not execute the initial collective bargaining agreement with the local union until March 2004. Although the agreement was made retroactive to February 1, there was no agreement prior to that date by which the employer agreed to deduct dues from its employees' wages and remit those dues to the local union.

Analysis

Article VI, Section 1 of the *Rules* provides that “to be eligible to run for any Convention delegate, alternate delegate or International Officer position, one must: (1) be a member in continuous good standing of the Local Union, with one’s dues paid to the Local union for a period of twenty-four (24) consecutive months prior to the month of nomination for said position with no interruptions in active membership due to suspensions, expulsions, withdrawals,

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transfers or failure to pay fines or assessments; [and] (2) be employed at the craft within the jurisdiction of the Local Union for a period of twenty-four (24) consecutive months prior to the month of nomination."

A member on dues check-off retains his good standing even if his dues were remitted late or not at all, provided he gave a check-off authorization and had sufficient earnings in the month from which dues could have been deducted. IBT Constitution, Article X, Section 5(c); *Dunn*, E9 (October 31, 1995); *Reynozo*, 2005 ESD 18 (October 25, 2005), *aff'd*, 06 EAM 05 (January 4, 2006).

The TITAN records of Jennings, Cunningham and Meeks show that each has executed a check-off authorization. The records for each further show that dues either were timely paid pursuant to that authorization or the member had sufficient earnings in any month where dues were not timely deducted to fund the payment of those dues.

In contrast, the check-off authorization Johnson executed on January 30, 2004 was inoperative until the check-off agreement between the employer and union came into effect on February 1. Because Johnson's dues for January 2004 could not be checked off and, further, because he did not pay cash dues for that month, he was not a member in good standing for that month. For this reason, Johnson lacks the 24 consecutive months of continuous good standing required to be eligible to run for delegate or alternate delegate.

Accordingly, we DENY the protest with respect to Jennings, Cunningham and Meeks and find them ELIGIBLE to run for delegate or alternate delegate to the 2006 IBT convention. However, we GRANT the protest with respect to Johnson and find him INELIGIBLE to run for delegate or alternate delegate.

Any interested party not satisfied with this determination may request a hearing before the Election Appeals Master within two (2) working days of receipt of this decision. The parties are reminded that, absent extraordinary circumstances, no party may rely upon evidence that was not presented to the Office of the Election Supervisor in any such appeal. Requests for a hearing shall be made in writing, shall specify the basis for the appeal and shall be served upon:

Kenneth Conboy
Election Appeals Master
Latham & Watkins
885 Third Avenue, Suite 1000
New York, New York 10022
Fax: (212) 751-4864

Copies of the request for hearing must be served upon the parties, as well as upon the Election Supervisor for the International Brotherhood of Teamsters, 1725 K Street, N.W., Suite 1400, Washington, D.C. 20007-5135, all within the time prescribed above. A copy of the protest must accompany the request for hearing.

Richard W. Mark
Election Supervisor

cc: Kenneth Conboy
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