

OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
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Michael H Holland
Election Officer

December 12, 1990

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343 South Dearborn Street
Chicago, IL 60604
(312) 922-2800

VIA UPS OVERNIGHT

Nathaniel Smith
116 Michigan Ave., NE, L-22
Washington, DC 20017

James Collins
Secretary-Treasurer
IBT Local Union 730
2001 Rhode Island Avenue, NE
Washington, DC 20018

Re: Election Office Case No. P-077-LU730-MID

Gentlemen:

A pre-election protest was filed pursuant to the Rules for the IBT International Union Delegate and Officer Election, revised August, 1990 ("Election Rules"). In his protest the complainant, Nathaniel Smith, alleges that Local Union 730 violated the Election Rules because of its refusal to authorize a leave of absence from his employment for the purpose of engaging in campaign activity. The Election Officer's investigation revealed the following.

Mr. Smith is a member of Local Union 730 and is covered by a collective bargaining agreement negotiated and administered by the union. The collective bargaining agreement provides, *inter alia*, for leaves of absence, not to exceed three months, for certain specified purposes. Among the reasons specified is "Official Union business". Mr. Smith requested the Local Union to approve a leave of absence for "official union business" so that he could campaign for a delegate position. The request was denied by the Secretary-Treasurer of the Local Union. The complainant does not allege, and the Election Officer did not find, that the Local Union authorized time off for official union business for campaign purposes on a discriminatory basis.

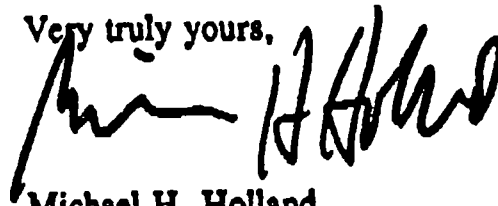
The only reference to time off work for official union business in the Election Rules appears in Article IX, Section 1 (c). That Section provides that time spent observing any aspect of the election process shall be considered as time spent on union business. The rule also provides that, upon written request, the Union shall certify to the observer's employer that the member is absent from work on official union business. However, the Election Rules specifically state that "[n]o observer shall use this privilege

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[the right to request time off as Union business] for the purpose of campaigning." In the absence of proof that official time off for campaign purposes has been granted on a discriminatory basis, the Election Officer concludes that the Election Rules do not require the grant of the complainant's request.¹

If any interested party is not satisfied with this determination, they may request a hearing before the Independent Administrator within twenty-four (24) hours of their receipt of this letter. The parties are reminded that, absent extraordinary circumstances, no party may rely upon evidence that was not presented to the Office of the Election Officer in any such appeal. Requests for a hearing shall be made in writing, and shall be served on Independent Administrator Frederick B. Lacey at LeBoeuf, Lamb, Leiby & MacRae, One Gateway Center, Newark, New Jersey 07102-5311, Facsimile (201) 622-6693. Copies of the request for hearing must be served on the parties listed above, as well as upon the Election Officer, IBT, 25 Louisiana Avenue, N.W., Washington, D. C. 20001, Facsimile (202) 624-8792. A copy of the protest must accompany the request for a hearing.

Very truly yours,



Michael H. Holland
Election Officer

cc: Frederick B Lacey, Independent Administrator, IBT
Grant Crandall, Regional Coordinator

¹Neither this protest nor this decision concern attendance at the IBT International Convention for which time off for attendance has historically been considered and the Election Officer has determined to be official Union business.

IN RE:

NATHANIEL SMITH,
Complainant,

and

IBT LOCAL UNION 730,
Respondent.

90 - Elec. App. - 20

DECISION OF
THE INDEPENDENT
ADMINISTRATOR

This matter arises out of an appeal from a December 12, 1990, decision of the Election Officer in Case No. [REDACTED]. This appeal centers upon Article IX, Section 1(c) of the Rules For The IBT International Union Delegate And Officer Election, revised August 1, 1990, ("Election Rules"). That Section deals with the rights of members to time off during the election process; and, more particularly, whether "campaigning" entitles members to time off, and whether that time is to be considered as time spent on Union business. A hearing was held by way of teleconference before me on December 20, 1990. The following persons were heard at the hearing: Nathaniel Smith, the Complainant; John Sullivan, on behalf of the Election Officer; Grant Crandall, the Regional Coordinator; and James Collins, Secretary-Treasurer of IBT Local Union 730 (the "Local").

The facts underlying this matter are simple and uncontroverted. Mr. Smith is a member of the Local and is covered by a collective bargaining agreement negotiated and administered by the

¹ Rather than quoting extensively from the Election Officer's December 12, 1990, decision, I am attaching a copy of it to my decision to set forth the nature of the dispute.

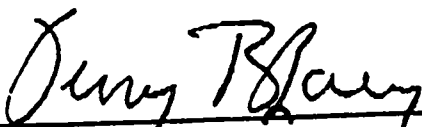
Local Union. The collective bargaining agreement provides, inter alia, for leaves of absence, not to exceed three months, for certain specified purposes. One of the specified purposes is "official Union business."

Mr. Smith requested the Local to approve a leave of absence for "official Union business" so that he could campaign for a position of delegate to the 1991 International Convention. The request was denied by the Secretary-Treasurer of the Local. The complainant does not allege, and the Election Officer did not find, that the Local Union authorized time off for official union business for campaign purposes on a discriminatory basis.

The only reference in the Election Rules to time off work for official union business appears in Article IX, Section 1(c). That Section provides that time spent observing any aspect of the election process shall be considered as time spent on union business. The rule also provides that, upon written request, the Union shall certify to the observer's employer that the member is absent from work on official union business. However, the Election Rules specifically state that "[n]o observer shall use this privilege [the right to request time off as Union business] for the purpose of campaigning." In the absence of proof that official time off for campaign purposes has been granted on a discriminatory

basis, the Election Rules do not require the grant of the complainant's request.'

Accordingly, I uphold the determination of the Election Officer in all respects, and find that campaigning for a delegate position to the 1991 Convention, in this instance, is not considered "official Union business" pursuant to the Election Rules.



Frederick B. Lacey
Independent Administrator

Dated: December 21, 1990.

Neither this protest, nor this decision, concern attendance at the IBT International Convention for which time off for attendance has historically been considered and the Election Officer has determined to be official Union business.