

OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
25 Louisiana Avenue, NW
Washington, DC 20001

Michael H Holland
Election Officer

(202) 624 8778
1 800-828-6496
Fax (202) 624 8792

June 16, 1992

VIA UPS OVERNIGHT

Johnny C Chappell
7324 Martha Lane
Fort Worth, Texas 73112

W R Kidwell
Relay Manager
Roadway Express Inc
200 Beltline Road
Irving, Texas 75061-6306

T C Stone
Secretary-Treasurer
IBT Local Union 745
1007 Jonelle Street
Dallas, Texas 75217

Re: Election Office Case No. P-1156-LU745-SOU

Gentlemen

A protest was filed pursuant to Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") by Johnny C Chappell, a member of Local Union 745. He protests his discharge and the subsequent panel hearing on his grievance concerning such discharge, contending that his employer, Roadway Express, Inc ("*Roadway*"), and the union members of the Joint Grievance Committee were prejudiced against him because of his prior candidacy for the position of 1991 IBT International Union Convention delegate from Local Union 745. The protest was investigated by Regional Coordinator Larry R Daves.

Mr Chappell, a member of Local Union 745, was an unsuccessful candidate for International Union Convention delegate from Local 745. He ran as an independent candidate in opposition to a delegate and alternate delegate slate headed by Local 745 Secretary-Treasurer T C Stone. Local 745's delegate and alternate delegate election occurred in mid-January 1991. The principal post-election protests - none of which were filed by Mr Chappell - were denied by the Election Officer on February 5, 1991. See Election Office Case Nos Post 3-LU745-SOU and Post 6-LU745-SOU.

Mr Chappell was discharged on March 10, 1992 by Roadway for failing to report to work in a timely fashion on March 7, 1992. His subsequent grievance was denied by the Southern Multi-state Grievance Committee on March 31, 1992. Mr Chappell claims that both his discharge and the subsequent failure of the grievance committee to order

him reinstatement resulted from retaliation against him for his earlier unsuccessful candidacy for International Union Convention delegate

Mr Chappell is a driver for Roadway On March 7, 1992, he was scheduled to commence work at 5 00 a m Shortly before 3 00 a m on that date, he was notified by Roadway that his starting time would be delayed, at approximately 4 00 a m he was instructed to report to work and depart on his run at 6 00 a m

Mr Chappell failed to report to work at 6 00 a m He inadvertently fell asleep and did not awaken until it was too late for him to report to work in a timely fashion When he awoke, Mr Chappell called Roadway and reported that he had inadvertently fallen asleep¹ He was subsequently discharged for such failure by letter dated March 10, 1992

The incident of March 7, 1992 was not the first time Mr Chappell had not reported to work in a timely fashion Since May 28, 1984 and prior to the date of his discharge, Mr Chappell had received discipline on twenty-six (26) separate occasions, including four (4) suspensions, for failing to report to work or failing to report to work in a timely fashion Indeed, during the period surrounding the January, 1991 delegate and alternate delegate from Local 745 - a period during which any animus against Mr Chappell because of his candidacy would likely to be more prominent - Mr Chappell was disciplined on three (3) occasions (December 27, 1990, December 31, 1990 and January 17, 1991) and given a three (3) day suspension on one occasion (February 20, 1991) for failing to report to work in a timely fashion Mr Chappell's personnel record at Roadway also demonstrates that he received discipline other than, and in addition to, the discipline he received for not timely reporting to work Further, on March 3, 1991 - shortly after the conclusion of the delegate and alternate delegate election in Local 745 - Mr Chappell was discharged by Roadway for failing to report a bid run Through the intervention of Local 745, the discharge was reduced to a suspension

Under the collective bargaining agreement between Roadway and the IBT, only disciplinary action occurring within a nine (9) month period preceding the day of discharge may be utilized to support the discharge action However, Mr Chappell was so disciplined on six (6) occasions prior to the date of his discharge, two of the disciplinary actions issued against him involved his failure to report to work in a timely fashion

¹ Mr Chappell claims that he awoke and called Roadway at 5 59 a m , while Roadway claims that he did not awake and telephonically report until 6 18 a m It is unnecessary, however, to resolve this discrepancy since Mr Chappell could not have arrived at work for his 6 a m run whether he awoke at 5 59 or 6 18 as Roadway claims

Johnny C Chappell
June 16, 1992
Page 3

The Election Officer's investigation fails to disclose that Mr Chappell was treated differently from other Roadway employees Mr Chappell's prior disciplinary record provides ample support for Roadway's actions Roadway adhered to the precepts of progressive discipline, Mr Chappell received six (6) prior disciplinary warnings - including two (2) for failing to report to work in a timely manner - in the nine (9) months prior to the date of his discharge

The Election Officer's investigation reveals that IBT members who failed to report to work in a timely fashion are indeed disciplined by Roadway for such infraction While no other Irving, Texas Roadway employee has been discharged for this reason, no other IBT member employed at this facility has a disciplinary record as extensive as that of Mr Chappell ²

The evidence in this case fails to disclose that a retaliatory motive was the reason for Mr Chappell's discharge and/or the basis of the Joint Grievance Committee's failure to reinstate him Mr Chappell's discharge occurred over a year after the conclusion of the delegate and alternate delegate election for Local 745 At the time that election was ongoing - when any animus against Mr Chappell based upon his candidacy would be more prevalent - Mr Chappell was not discharged despite his commission of disciplinary offenses

On the same basis, there is no reason to conclude that the decision of the Joint Grievance Committee, or its Union members, based their decision to deny Mr Chappell's grievance, on animus against Mr Chappell based upon his unsuccessful candidacy for International Union Convention delegate Further, as noted above, shortly after the conclusion of the delegate and alternate delegate election for Local 745, Mr Chappell was discharged by Roadway His reinstatement was secured at that time by Local 745's representatives Local 745's efforts on his behalf shortly after the conclusion of the delegate and alternate delegate election negates any contention that the Local harbored animus against him based upon his candidacy for delegate

The protest is DENIED


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

² Mr Chappell's arguments to the contrary refer to employees allegedly not discharged despite involvement in numerous accidents Accidents, however, are entirely different from absenteeism and/or tardiness Assuming Roadway was lenient with respect to IBT members involved in accidents, that leniency does not demonstrate that its actions against Mr Chappell were disparate

Johnny C Chappell
June 16, 1992
Page 4

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

MHH/cb

cc Frederick B Lacey, Independent Administrator

Larry R Daves, Regional Coordinator

Richard Bennett, Esquire
Roadway Services, Inc
1077 Gorge Boulevard
P O Box 88
Akron, Ohio 44309-0088