



OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
25 Louisiana Avenue, NW
Washington, DC 20001
(202) 624-8778
1 800-828 6496
Fax (202) 624 8792

Michael H. Holland
Election Officer

Chicago Office
% Cornfield and Feldman
343 South Dearborn Street
Chicago, IL 60604
(312) 922 2800

March 4, 1991

VIA UPS OVERNIGHT

Mark L. Holton
7855 Bowers Rd
Amanda, OH 43102

W. Pete Bilyeu
President
IBT Local Union 413
555 E. Rich St
Columbus, OH 43215

James E. Harvey
c/o Local 413
555 E. Rich St
Columbus, OH 43215

Re: Election Office Case No. P-574-LU413-CLE

Gentlemen

A pre-election protest was timely filed pursuant to Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") In his protest, Mark L. Holton alleges that his employers, UPS, has denied him Union leave for campaigning purposes, and that officers of Local 413 have conspired with UPS to prevent his attendance at a grievance committee hearing because he is a candidate for delegate

The protest was investigated by Regional Coordinator Joyce Goldstein. The investigation shows that Mark Holton is a shop steward. On February 19, 1991, at a Local Union meeting, a driver, Scott Zoog, requested of the Local Union officers that Mark Holton replace the job steward who had represented him at the first step of his grievance hearing. Local officers Pete Bilyeu and James Harvey agreed to this request. Subsequently, James Harvey sent a letter to UPS advising the employer that Mark Holton's attendance would be required at a grievance hearing on February 25, 1991. The letter was mailed February 21, 1991 since the contract requires forty-eight hours notice to the employer for an employee to be released for Union business.¹ UPS management objected initially to the Local's request for Mr. Holton's release from work because Mr. Holton was not the shop steward who represented the grievant in the initial

¹Regional Coordinator Goldstein was furnished a copy of the letter

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stages of the grievance hearing The Local officers, however, insisted that the designation of the shop steward was a determination appropriately made by the Union, not the employer The employer ultimately agreed with the Local's position

It is undisputed that Mr Holton did then in fact attend the grievance meeting held for Mr Zoog The evidence shows that the Local in no way violated the *Rules* This aspect of the protest is DENIED

Mr Holton also complains that his employer refused to grant Union leave for campaign purposes While the *Rules* require that time spent by a member observing an election shall be considered time spent on Union business, the *Rules* do not require that an employer or Union consider time spent for the purpose of campaigning as time spent on Union business *Rules*, Article IX, § 1. Thus, UPS was not required to grant Mr Holton Union leave for the purpose of campaigning

Based on the foregoing, the *Rules* have not been violated by UPS in this case This aspect of 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 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/mca

cc Frederick B Lacey, Independent Administrator
Joyce Goldstein, Regional Coordinator