

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

Michael H. Holland  
Election Officer

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August 14, 1991

**VIA UPS OVERNIGHT**

Robert Bohn  
18290 Clayton Ave.  
Hastings, MN 55033

Wintz Parcel Drivers, Inc.  
2323 Terminal Rd.  
Roseville, MN 55113

Harold J. Yates  
President  
IBT Local Union 120  
320 University Ave., W.  
Minneapolis, MN 55103

**Re: Election Office Case No. P-818-LU120-NCE**

Gentlemen:

A protest was filed pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") on behalf of Robert Bohn, a member of Local Union 120. The protest alleges that Mr. Bohn has been terminated by his employer, Wintz Parcel Drivers, Inc., in retaliation for his election campaign activity on behalf of General President candidate Ron Carey, other International Union officer candidates affiliated with Mr. Carey, and delegates and alternate delegates who sought election as supporters of Mr. Carey and the other International Union officer candidates affiliated with him.

Mr. Bohn was terminated in connection with an accident he had while driving his employer's vehicle. Mr. Bohn claims that the accident was the result of faulty equipment supplied by the employer and further contends that his employer admitted that the vehicle was unsafe. As a result of that accident, Mr. Bohn was injured, and from the date of the accident through the present - during the entirety of the period of his discharge - has been temporarily physically disabled and unable to work. Mr. Bohn has applied for worker's compensation benefits; his claim for such benefits is being processed in accordance with the laws of the State of Minnesota.

A grievance protesting such discharge was filed pursuant to the terms of the collective bargaining agreement between Wintz Parcel Drivers, Inc. and the IBT. By letter dated July 18, 1991, the Election Officer deferred his decision in this matter until the conclusion of the contractual grievance/arbitration processes.

The grievance processes have now been concluded. In the grievance procedure,

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Mr. Bohn was reinstated to his employment with Wintz Parcel Drivers, Inc. with full seniority, full pension and full health and welfare benefits.

Mr. Bohn, however, was not awarded any back pay. He is presently temporarily physically disabled and unable to work and was so temporarily physically disabled during the entire period from the date of his discharge through the date of the grievance decision. Therefore, Mr. Bohn was not entitled to back pay for the period of his termination, since he lost no wages as a result of such termination.

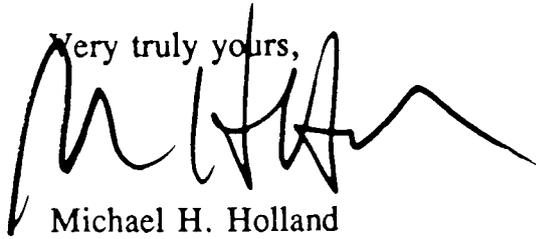
The remedy for wrongful discharge, both under the normal contractual grievance/arbitration procedures and under substantive federal law, e.g., National Labor Relations Act, Equal Employment Opportunity Act, is a make-whole remedy. The employee found to have been wrongfully discharged receives that which the employee would have received but for the wrongful discharge. In this case, Mr. Bohn received as a remedy in the grievance procedure all that he would have received from his employer even had he not been discharged. Under the law, the remedy need not include back pay because Mr. Bohn would not have been working and receiving wages because of his injury even if he had not been discharged.

Mr. Bohn has received, as a result of the grievance/arbitration decision, the totality of that which the Election Officer could afford him as remedy to this protest. Mr. Bohn's claim that he should be awarded the difference between his regular pay and the worker's compensation benefits he will receive, because the accident was the fault of his employer by supplying unsafe equipment is not a claim supported by substantive law. Further, the failure of Mr. Bohn to have been provided this extraordinary remedy in the grievance/arbitration procedure does not emanate from his participation in the IBT International Union delegate and officer election. The remedy he was granted is the normal remedy for wrongful discharges. His failure to receive an extraordinary remedy does not suggest discrimination against him based upon his participation in the delegate and/or International Union officer elections.

In accordance with the foregoing, the Election Officer finds that any further processing of the instant is unnecessary. Accordingly, the Election Officer DISMISSES the protest as moot.

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.

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Very truly yours,  
  
Michael H. Holland

MHH/mjv

cc: Frederick B. Lacey, Independent Administrator

Barbara Z. Quindel, Regional Coordinator

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