

OFFICE OF THE ELECTION ADMINISTRATOR
for the
INTERNATIONAL BROTHERHOOD OF TEAMSTERS

IN RE: KEN WENHAM,)	Protest Decision 2001 EAD 221
)	Issued: March 7, 2001
)	OEA Case No. PR012412WE
Protestor.)	
_____)	

Ken Wenham, a member of Local Union 690 and candidate for delegate, filed a pre-election protest pursuant to Article XIII, Section 2(b) of the Rules for the 2000-2001 IBT International Union Delegate and Officer Election (“*Rules*”). His protest alleges that the list of nominees in the local’s delegate election was not posted at his worksite as required by the *Rules*.

Election Administrator representative Paige Keys investigated the protest.

Findings of Fact and Analysis

Article II, Section 6(a) of the *Rules* requires the local union secretary-treasurer, “[a]s soon as possible but in no event later than five (5) days following the nomination meeting(s),” to post “on all Union bulletin boards a list of nominated candidates, by name (and by slate affiliation, if known at the time).”

The local held its nomination meeting January 9, 2001. Its deadline for posting the list of nominated candidates was January 14. The local promptly mailed the list to its stewards with instructions that they post it on all worksite bulletin boards immediately. However, when the protestor returned from a week’s vacation on January 22, he discovered the list was not posted at his worksite. He contacted the local, and the list was posted the same day.

Ballots were mailed February 9. The protestor does not allege that he was materially disadvantaged by the list’s absence from his worksite, nor does he contend he was unable to distribute campaign material or otherwise inform members of his candidacy because the list was missing for a period of time.

In *Snow*, P368 (March 6, 1996), a delayed posting of nomination results did not violate the *Rules* where there was no evidence of the local’s bad faith and no disadvantage to candidates. In *Young*, P426 (March 29, 1996), the local’s prompt re-posting of notices mitigated the effect of the missing posting. In *Snow*, P727 (May 28, 1996), the Election Officer recognized the practical difficulty in maintaining postings over a period of time:

[T]he Local is not necessarily able to continually police each and every bulletin board. There is no evidence that the Local violated the *Rules* by failing to post or when notified, repost. There is no

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evidence that the Local directed, encouraged or condoned the removal of any [posting].

Here, as in *Young, supra*, we find “there is no evidence to suggest that the missing notice led to an electorate without knowledge of the election, or otherwise affected its outcome,” especially given that the list of candidates was posted at the protestor’s worksite nearly three weeks before ballots were mailed. Accordingly, the protest is DENIED.

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 Administrator 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
Suite 1000
885 Third Avenue
New York, New York 10022
Fax: 212-751-4864

Copies of the request for hearing must be served upon all other parties, as well as upon the Election Administrator for the International Brotherhood of Teamsters, 727 15th Street NW, Tenth Floor, Washington, DC 20005 (facsimile 202-454-1501), all within the time prescribed above. A copy of the protest must accompany the request for hearing.

William A. Wertheimer, Jr.
William A. Wertheimer, Jr.
Election Administrator

cc: Kenneth Conboy
2001 EAD 221

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