

**OFFICE OF THE ELECTION ADMINISTRATOR  
for the  
INTERNATIONAL BROTHERHOOD OF TEAMSTERS**

<b>IN RE: RICHARD DE VRIES,</b>	)	Protest Decision 2001 EAD 449
	)	Issued: September 12, 2001
	)	OEA Case No. PR082511MW
<b>Protestor.</b>	)	
_____	)	

Richard de Vries, a member of Local 705 and supporter of General President candidate Tom Leedham, 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*"). De Vries alleges that the Prairie Group ("Prairie") violated Article VII, Section 11(e) of the *Rules* by denying him and another Leedham supporter (the "campaigners") access to "employee parking lots until such time as ordered to do so by the Office of the Election Administrator or a judge."

Election Administrator representative Jason Weidenfeld investigated the protest.

**Findings of Fact and Analysis**

Prairie calls itself "one of the Midwest's largest suppliers of construction materials and ready mix products." The campaigners entered the parking lot of a Prairie facility on Saturday, August 25. The parties agree that drivers park their cars in the lot and work on Saturdays. The parking lot is located between the street and the loading area, thereby requiring the trucks to drive through the lot. Prairie alleges that in order to reach the street, the drivers (brick drivers in this instance) load their trucks and drive through an internal road that intersects the employee parking lot.

The campaigners allege that while they campaigned, drivers slowed down and stopped to speak with them. The campaigners state that the drivers stopped voluntarily and without prodding. The campaigners also claim that a couple of the truck drivers stopped in the parking lot to get items from their cars, such as lunch, shoes, etc. The campaigners spoke with the drivers and handed out some leaflets. After Prairie called the police to remove them, the campaigners left the facility and moved to the street.

Prairie claims that the campaigners materially interfered with normal business activities by stopping drivers on their way out of the facility and that the campaigners could certainly tell drivers not to stop. Prairie claims that one driver stopped when approached by the campaigners and listened to them for about five minutes. Prairie claims that a second truck could not leave until the first one had done so and that both drivers were working when approached. Prairie also stated that the campaigners did not readily identify themselves and, instead, screamed about a court order requiring access.

Prairie stated that although it has no problem generally with the rule granting parking lot access to Teamster members, in this case the interference disrupted the company's business. Prairie has indicated that it will grant Teamsters the right to campaign on the parking lots of its

facilities that employ other Teamsters, so long as the campaigning does not materially interfere with Prairie's business and does not raise safety concerns. Prairie did not allege that the campaigners' actions raised safety concerns in this case.

Article VII, Section 11(e) of the *Rules* grants Teamster members the right to campaign on employer parking lots under certain conditions. This rule also grants Teamster employees the reciprocal right to receive literature. Nevertheless, the right to receive literature is "not available to an employee on working time." In addition, the rights under the access rule "do not extend to campaigning which would materially interfere with the normal business activities of the employer."

The campaigners were within their rights to campaign in Prairie's parking lot. They did not, however, have the right to solicit support from drivers while they worked because Article VII, Section 11(e) does not protect campaigning among employees while they are at work. This is so whether the campaigners actively sought to stop the Prairie employees while they were driving their trucks, or whether the drivers voluntarily stopped. Similarly irrelevant is whether it is true that drivers sometimes stopped in the parking lot to pick up an item or two from their cars. In all such instances, the drivers were working and the campaigners were not privileged to campaign among them.

We, therefore, DENY the protest.

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 15<sup>th</sup> 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 449

*De Vries*, 2001 EAD 449  
September 12, 2001

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