

IN RE:

JOSEPH KOBLINSKI

01 - Elec. App. – 043 (KC)

This matter is an appeal from the Election Administrator's (the "EA") decision 2001 EAD 194, issued February 26, 2001. The hearing was requested by Joseph Koblinski, candidate and member of Teamsters Local Union 264 in Cheektowaga, New York.

A hearing was held before me on March 7, 2001. The following persons were heard by way of teleconference: Jeffrey J. Ellison, Esq. and Lois Tuttle, Esq. for the Election Administrator's Office; Mr. Koblinski; Mr. Scott Chismar, one of the protestors and business agent for Local Union 264; Mr. Bill McCracken, business agent for Local Union 264; and Mr. Joseph Giroux, election coordinator for Local Union 264. No additional submissions were received by this office.

In the instant decision, the EA found Mr. Koblinski to be ineligible based on two factors¹: (1) that Mr. Koblinski had taken a voluntary withdrawal after being laid off in March 2000; and (2) that he had paid no dues for the months of April through September 2000, thus causing a break in his twenty-four consecutive months of continuous good standing as required by Article VI, Section 1 of the Rules². Mr. Koblinski does not dispute either of these findings.

¹ The protestors also alleged that Mr. Koblinski was ineligible because he did not work in the craft for twenty-four consecutive months as required under Article VI, Section 1(a)(2) of the Rules. The EA found it unnecessary to decide this issue because of Mr. Koblinski's voluntary withdrawal and failure to pay dues (See, page 4, 2001 EAD 194).

² Mr. Koblinski submitted a request to the EA for verification of his eligibility on January 31, 2001. The EA initially ruled Mr. Koblinski eligible, based on the fact that when laid off from his position at Fleming Foods, he and all laid-off employees of Fleming were automatically placed on withdrawal. Subsequent investigation found Mr. Koblinski had independently intended to go on voluntary withdrawal status immediately after being laid off, knew that he had been placed on withdrawal for the months in question,

Mr. Koblinski argues that the filing of the original protest was untimely. On this issue the EA ruled that prudential concerns “do not warrant so strict a policy as to deny this protest..., given that [the less than one] day’s late-filing would not compromise our ability to determine the matter on the merits.” (See, page 4, 2001 EAD 194). I concur with this determination.

As I have noted many times in the past, the factual findings of the EA are to be given substantial deference. Accordingly, I affirm the EA’s decision finding Joseph Koblinski to be ineligible.

____s/Kenneth Conboy _____
Kenneth Conboy
Election Appeals Master

Dated: March 9, 2001

and still did not pay dues for those months. Therefore, upon reconsideration, EA determined Mr. Koblinski to be ineligible.