

IN RE:

LARRY HART

01 - Elec. App. – 045(KC)

This matter is an appeal from the Election Administrator's (the "EA") decision 2001 EAD 189, issued February 23, 2001. The hearing was requested by Larry Hart, the protestor, delegate candidate and member of Teamsters Local Union 705 in Chicago, Illinois.

A hearing was held before me on March 7, 2001. The following persons were heard by way of teleconference: Jeffrey J. Ellison, Esq. and Dennis Sarsany, Esq., for the Election Administrator's Office; Mr. Hart; Mr. Mark Postilion, Trustee of Local Union 705; and Joe Bakes, a member of Local Union 705. No additional submissions were received by this office.

Mr. Hart's protest alleged that shop stewards in Local Union 705 were terminated because they would not support the slate of Gerald Zero, principal officer of the Local Union 705. The EA found of the thirty stewards alleged by Mr. Hart to have been terminated for political reasons, ten had been reinstated. In his review of the remaining stewards, most were found to be terminated for cause with a termination date too remote in time to the delegate election to be covered by these Rules. Therefore, since the EA could not establish that conduct protected by the Rules was a motivating factor in the terminations, no violation was found and the protest was denied.

In his protest submission Mr. Hart provided Mr. Sarsany, the EA's investigator, with names, addresses and phone numbers for approximately twenty-eight shop stewards he claimed were terminated because of their political beliefs. Mr. Hart asserted that Mr. Sarsany

had not thoroughly investigated his protest because he had only contacted one witness and failed to call the others on Mr. Hart's list.

During the appeal hearing, Mr. Sarsany stated that he contacted a random sampling of the stewards from Mr. Hart's list. He requested and received a list from Local Union 705 of the dates and reasons for the stewards' termination, and where there was a cause for termination due to performance or behavior, Mr. Sarsany verified the cause or behavior with either the individual steward or with sources independent of Mr. Zero. He examined attendance records for steward and educational meetings and spoke to the people who keep the records. As a result of this investigation, Mr. Sarsany concluded that the causes for the terminations were independent of Rules-protected conduct and therefore found no violation of the Rules.¹

In his decision the EA did state there was some evidence to support the conclusion that one of the former stewards, Joe Bakes, may have been terminated because he opposed Mr. Zero in the local officer election. According to the EA, however, that evidence was insufficient to establish a link between Mr. Bakes' termination² and conduct protected by the Rules.

As the factual findings of the EA are to be given substantial deference, I am affirming the EA's decision with respect to all of the stewards with the exception of Mr. Bakes.

I remand that matter back to the EA in light of the new evidence presented in Mr. Bakes'

¹Rich Carlucci, who was terminated on January 4, 2001, claimed in an affidavit submitted for this hearing that he was told by his business representative, Joseph Strazzante, that he was terminated because he failed to support Jerry Zero and his slate. However, Mr. Strazzante denies he told this to Mr. Carlucci.

² Mr. Bakes was terminated five days before the January 21, 2001 nomination meeting allegedly for his failure to support his business representative's decisions regarding work issues and solutions. Mr. Bakes received a call from Mike Marosovich, the business representative, on January 11, 2001 asking for support of Mr. Zero's delegate slate. Mr. Bakes was not prepared to pledge his support, and two days later received a letter in the mail dated January 11, 2001, stating that he was terminated as a steward effective January 15, 2001.

affidavit, referenced on appeal, as to the statements made to Mr. Bakes by Mr. Marosovich concerning the reasons behind the termination.

____s/Kenneth Conboy_____
Kenneth Conboy
Election Appeals Master

Dated: March 16, 2001