

OFFICE OF THE ELECTION SUPERVISOR
for the
INTERNATIONAL BROTHERHOOD OF TEAMSTERS

IN RE: MATTHEW STUDD,)	Protest Decision 2006 ESD 103
)	Issued: March 29, 2006
Protestor.)	OES Case No. P-06-082-012406-SO
_____)	

Matthew Studd, a member and delegate candidate of Local Union 327, filed a pre-election protest pursuant to Article XIII, Section 2(b) of the Rules for the 2005-2006 IBT International Union Delegate and Officer Election (“*Rules*”). He alleged that Cassens Transport violated his right to campaign in the drivers’ breakroom.

Election Supervisor representative Dolores Hall investigated this protest.

Findings of Fact and Analysis

Protestor Studd is a driver for Cassens Transport at its Smyrna, Tennessee terminal. On January 16, 2006 and while off duty, he campaigned in the drivers’ breakroom. Terminal manager Jim Firkus directed him to leave the breakroom and limit his campaign activity to the long-term parking lot.

This protest followed.

Investigation showed that drivers routinely park their vehicles in the short-term parking lot, pick up their assignments from the dispatcher, and then move their vehicles to the long-term lot. Mechanics park in the short-term lot.

Investigation further showed that campaign activity has historically occurred in the non-work areas of the terminal. Thus, Studd told our investigator that he has campaigned in the drivers’ breakroom in each delegate and alternate delegate election dating to 1996. Further, evidence showed that campaign shirts and hats have been distributed in the mechanics’ breakroom.

At our investigator’s request, Cassens’ labor relations officer Joe Clark investigated the historic practice of campaigning in these breakrooms. Based on this investigation, Clark agreed that such a practice exists.

Article VII, Section 12(d) of the *Rules* states that “[n]o restrictions shall be placed upon candidates’ or members’ preexisting rights to solicit support, distribute leaflets or literature ... or engage in similar activities on employer ... premises.” See *Berg*, 2000 EAD 22 (September 21, 2000); *Harrington*, P809 (June 20, 1996); *Brinkman*, P151 (September 18, 1995), *aff’d*, 95 EAM 21 (October 10, 1995) (past practice enforced that permitted campaigning in non-work areas on non-work time).

Based on this authority, the employer has agreed not to interfere with campaign activity in non-work areas on non-work time and, specifically, to permit campaign activity in short- and long-term parking lots and employee breakrooms.

Accordingly, we deem this protest RESOLVED.

Studd, 2006 ESD 103
March 29, 2006

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 Supervisor 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
885 Third Avenue, Suite 1000
New York, New York 10022
Fax: (212) 751-4864

Copies of the request for hearing must be served upon the parties, as well as upon the Election Supervisor for the International Brotherhood of Teamsters, 1725 K Street, N.W., Suite 1400, Washington, D.C. 20007-5135, all within the time prescribed above. A copy of the protest must accompany the request for hearing.

Richard W. Mark
Election Supervisor

cc: Kenneth Conboy
2006 ESD 103

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