

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

IN RE: TOIALE JOHNSON,)	Protest Decision 2011 ESD 225
)	Issued: April 21, 2011
Protestor.)	OES Case No. P-141-021511-MW
_____)	

Toiale Johnson, member of Local Union 299 and candidate for delegate on the New Era slate, filed a pre-election protest pursuant to Article XIII, Section 2(b) of the Rules for the 2010-2011 IBT International Union Delegate and Officer Election (“*Rules*”). The protest alleged that campaign literature for the opposing Moore Members First slate was spread on a table outside a meeting room, and in chairs in the meeting room, during a Local Union 299 cartage meeting that took place on February 13, 2011 at the Michigan Conference of Teamsters and Welfare Hall, Room 203. This action is alleged to have violated Article VII, Section 5(a)(4).

Election Supervisor representative Joe Childers investigated this protest.

Findings of Fact and Analysis

Pursuant to Article XIII, Section 2(f)(2), we deferred decision on this protest until after the delegates and alternate delegates election at Local Union 299, thereby treating this matter as post-election protest pursuant to Article XIII, Section 3. Except for protests alleging threats, coercion, intimidation, violence or retaliation, post-election protests shall be considered and remedied only if the alleged violation may have affected the outcome of the election.

The election was held on March 10, 2011. Four delegates and four alternate delegates were elected. The margin of victory in the delegates election between the lowest winning and the highest losing tally was 167 votes. In the alternate delegates election, the margin was 170 votes.

The protester told our investigator that between 80 and 100 members attended the February 13 cartage meeting at issue. Ken Kwapisz, local union secretary-treasurer and chair of the election committee for the delegate election, told our investigator that he chaired the February 13 cartage meeting and that the sign-in sheet for the meeting showed 55 members attended it.

Even were the number who attended the meeting as high as the protestor claimed, the margin between winning and losing candidates demonstrates that the alleged violation, if proven, did not affect the outcome of the election.

Accordingly, we DENY this 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

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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, NY 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, 1801 K Street, N.W., Suite 421 L, Washington, D.C. 20006, 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
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DISTRIBUTION LIST (BY EMAIL UNLESS OTHERWISE SPECIFIED):

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