

OFFICE OF THE ELECTION SUPERVISOR
for the
INTERNATIONAL BROTHERHOOD OF TEAMSTERS

IN RE: LIAM RUSSERTT,)	Protest Decision 2015 ESD 48
)	Issued: November 10, 2015
Protestor.)	OES Case No. P-061-101915-NE
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Liam Russertt, member of Local Union 804, filed a pre-election protest pursuant to Article XIII, Section 2(b) of the Rules for the 2015-2016 IBT International Union Delegate and Officer Election (“*Rules*”). The protest alleged that UPS denied him parking lot access to campaign, in violation of the *Rules*.

Election Supervisor representative Peter Marks investigated this protest.

Findings of Fact and Analysis

Liam Russertt is a candidate for president of Local Union 804. He formerly was employed by UPS and had representational responsibility for UPS members within the local union. However, as part of the settlement of a job action that is detailed in our decision in *Zuckerman*, 2015 ESD 5 (July 1, 2015), Local Union 804 agreed not to assign Russertt to any representational duties with respect to UPS members of the local union.

Since that time, Russertt has been nominated and is actively campaigning for election as president of Local Union 804. Russertt has sought to campaign on UPS parking lots within the local union’s jurisdiction, but on each attempt he has been directed to depart by UPS security and, frequently, New York City police. On at least one occasion, Russertt has been cited by the police for trespassing.

According to the Local Union 804’s “Notice of Nomination Meeting and Election of Officers,” nominations were scheduled for October 18, 2015. Ballots for the officer election will be mailed to members “on or about November 23, 2015” and the ballot count is scheduled for December 15, 2015.

In addition to his candidacy for local union office, Russertt has declared his candidacy for delegate to the IBT International Convention from Local Union 804. The local union election plan submitted by Local Union 804 proposes to hold the meeting to nominate candidates for delegate and alternate delegate on February 28, 2016, with ballots to be mailed on March 24 and counted on April 22, 2016.

Local Union 804 has advised UPS that its agreement not to assign Russertt to representational responsibilities with respect to UPS did not affect whatever rights Russertt has to campaign on UPS property.

Russertt filed this protest, alleging that UPS has violated his rights under Article VII, Section 12(e) of the *Rules* to campaign on employer parking lots where members park their vehicles. That limited right of access grants candidates for IBT International Convention delegate, among others, the right to campaign on employer parking lots “in connection with such candidacy.”

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Investigation showed that Russertt's campaign activity for which he was removed from UPS property was in connection with the Local Union 804 officers election and not the election for IBT International Convention delegate and alternate delegate. The campaign material he distributed before being removed by security and the police advocated for the election of himself and a slate of candidates to local union office. No evidence was presented showing that Russertt campaigned for himself or others as candidates in the IBT International officer or delegate election.

Because the *Rules* grant parking lot access rights only in connection with the International officer and delegate election, we find that UPS has not violated the *Rules* by denying Russertt access to the parking lot to campaign for local union office. Accordingly, we DENY this protest.

We express no opinion as to whether Russertt has any right to campaign on UPS property in connection with the Local Union 804 officers election, except to say that if such a right exists, it is not grounded in the *Rules*.

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:

Kathleen A. Roberts
Election Appeals Master
JAMS
620 Eighth Avenue, 34th floor
New York, NY 10018
kroberts@jamsadr.com

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, 1050 17th Street, N.W., Suite 375, Washington, D.C. 20036, all within the time prescribed above. A copy of the protest must accompany the request for hearing.

Richard W. Mark
Election Supervisor

cc: Kathleen A. Roberts
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