

OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
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Michael H. Holland
Election Officer

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August 6, 1991

VIA UPS OVERNIGHT

Mr. Don Swartwood
19401 N. 7th St. Sp. 207
Phoenix, Arizona 85204

W. Terry Moser
Secretary/Treasurer
IBT Local Union 104
1450 S. 27th Ave.
Phoenix, Arizona 85009

Re: Election Office Case No. P-828-LU104-RMT

Gentlemen:

A protest was filed pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("Rules") concerning the reimbursement for lost wages incurred in attending the 1991 IBT International Union Convention by a duly elected delegate to that Convention.

Mr. Don Swartwood, a member of Local 104, filed a protest on July 21, 1991, complaining that the reimbursement received from Local 104 did not constitute full compensation for the time spent at the 1991 IBT International Union Convention. Mr. Swartwood admits that he was compensated or reimbursed in an amount equal to one week's normal wage for his attendance at the Convention. He maintains, however, that as each Tuesday is customarily one of two weekly days off from his regular employment and because he was required to work at union business by attending the Convention on that day, he should have been reimbursed at the overtime pay rate which his employer would have been required to pay him had he been working at his customary job on that day.

Mr. Swartwood is customarily compensated on a "per trip" basis. His customary work week involves three (3) trips in each seven (7) day period. Between vacation payments made by his employer for which Mr. Swartwood does not seek reimbursement from Local 104 and the amount of the payment made by the Local Union, Mr. Swartwood received the equivalent of one (1) week's normal compensation which he would have otherwise received from his employer.

In accordance with the *Rules*, the Elections Officer promulgated and distributed an Advisory Regarding Convention Expenses on April 19, 1991 ("Advisory"). The Advisory interpreted the *Rules* to include in the category of reasonable expense of a delegate attending the convention, the salary or hourly wage of the attending delegate.

A salaried delegates was to receive the "regular weekly salary for one week"; a delegate paid on an hourly wage basis was to receive "straight time hourly wages, excluding


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overtime, mileage or other premiums." In each case, the Advisory deemed the payment to be adequate to cover the period of time spent by the delegate at the Convention.

The amount of compensation received by Mr. Swartwood in reimbursement for his attendance at the Convention was equal to one week's compensation at his customary employment, excluding overtime, mileage or other premiums, in accordance with the Advisory and the *Rules*. Accordingly, Mr. Swartwood's protest is DENIED.

If any interested party is not satisfied with this determination, they may request a hearing before the Independent Administrator within twenty-four (24) hours of their receipt of this letter. The parties are reminded that, absent extraordinary circumstances, no party may rely upon evidence that was not presented to the Office of the Election Officer in any such appeal. Requests for a hearing shall be made in writing, and shall be served on Independent Administrator Frederick B. Lacey at LeBoeuf, Lamb, Leiby & MacRae, One Gateway Center, Newark, New Jersey 07102-5311, Facsimile (201) 622-6693. Copies of the request for hearing must be served on the parties listed above, as well as upon the Election Officer, IBT, 25 Louisiana Avenue, N.W., Washington, D.C. 20001, Facsimile (202) 624-8792. A copy of the protest must accompany the request for a hearing.

Very truly yours,



Michael H. Hollan

MHH/mjv

cc: Frederick B. Lacey, Independent Administrator
Bruce Boyens, Regional Coordinator