

OFFICE OF THE ELECTION OFFICER  
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS  
25 Louisiana Avenue, NW  
Washington, DC 20001  
(202) 624-8778  
1-800-828-6496  
Fax (202) 624-8792

Michael H. Holland  
Election Officer

Chicago Office  
% Cornfield and Feldman  
343 South Dearborn Street  
Chicago, IL 60604  
(312) 922-2800

October 25, 1991

**VIA UPS OVERNIGHT**

James A. Steinkamp  
762 Hand Avenue  
Ormon Beach, FL 32174

United Parcel Service  
425 Fentress Blvd.  
Daytona Beach, FL 32114

Larry D. Parker  
President  
IBT Local Union 385  
126 North Kirkman Road  
Orlando, FL 32811-1498

**Re: Election Office Case No. P-957-LU385-SEC**

Gentlemen:

A protest was filed pursuant to Article XI of the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*"). In his protest, Mr. James A. Steinkamp alleges that he was terminated from his position as a package car driver with the United Parcel Service ("UPS") because of his election activities. The Election Officer's investigation revealed the following.

Until his discharge James Steinkamp was employed as a package car driver at the UPS facility in Daytona, Florida. Mr. Steinkamp is a member of Local Union 385 and was an unsuccessful candidate for delegate to the 1991 IBT International Convention running as part of the "Teamsters for Our Future Slate" which supports Ron Carey, a nominated candidate for General President of the IBT. The Teamsters for Our Future Slate was opposed by a slate consisting of incumbent officers of the Local Union. Mr. Steinkamp alleges that he has actively campaigned on behalf of the "Teamsters for Our Future Slate" and, since the conclusion of the delegate election, has campaigned on behalf of Ron Carey and his slate of candidates. Mr. Steinkamp alleges that his campaign activities are well known by his Local Union and by UPS and that the officers of his Local Union and the officials of his employer are opposed to his political positions.

On July 17, 1991, Mark Drake, the UPS Center Manager of the Daytona facility, rode with Mr. Steinkamp to evaluate his delivery procedures. During that ride Drake noticed that Steinkamp had wired a fan to the car's electrical system. Drake informed Steinkamp that he did not think wiring fans into the electrical system was permitted. During an interview on the following day, July 18, 1991, Drake discussed with

Steinkamp a number of areas for improvement in his delivery procedure. During that interview Drake informed Steinkamp that wiring fans into the electrical system was prohibited. However, Drake stated that he would have no objection to Steinkamp's use of a "battery powered" fan in his package car. Steinkamp then filed a grievance challenging the prohibition on the use of fans in company vehicles.

On July 25, 1991, Drake again road with Steinkamp as a follow up to the earlier ride and evaluation. When Drake met Steinkamp during the run, Drake noticed a fan that was still wired to the electrical system and that the bulkhead door was left open, presumably to facilitate air flow. He instructed Steinkamp that the bulkhead door was to remain closed at all times other than during loading and unloading. Steinkamp was issued a warning letter on July 31, 1991, because of his failure to remove the fan from the electrical system as previously instructed.<sup>1</sup>

On August 7, 1991 a meeting was held concerning Steinkamp's grievance filed in response to Drake's statement that fans wired into the electrical system would not be allowed. Drake was not present at that meeting and UPS was represented by Ron Wilson, a labor relations manager.<sup>2</sup> Wilson stated that the issue regarding excessive heat in the package cars was being considered by a National Safety and Health Committee established under the collective bargaining agreement between UPS and the IBT. Wilson further stated that until this issue was resolved at the national level it was the policy of UPS that no fans, of any kind, were allowed in the delivery cars. Steinkamp complained that he had already invested a large amount of money to buy a battery powered fan. Wilson, in response, reiterated that UPS policy prohibited the use of fans of any type.

After Drake's return to the facility, on the Monday following the grievance meeting, he held a meeting with three shop stewards, Jim Steinkamp, Mike Moore and Lynn Swassey, concerning the handling of grievances. During the course of this meeting Drake, who did not know what had happened at the grievance meeting the week before, reiterated his position regarding the permissible use of battery powered fans in the package cars.<sup>3</sup> Steinkamp did not tell Drake, or the other stewards, what happened at the grievance meeting - or of Wilson's statement regarding UPS' policy regarding fans.

---

<sup>1</sup> The warning letter concluded with the statement "[t]his notice is to inform you that any future infractions of this nature will result in further disciplinary action, up to and including termination of employment."

<sup>2</sup> Drake did not attend the grievance meeting because he was away from the Daytona facility when the meeting occurred.

<sup>3</sup> Drake states that he is a relatively new supervisor and was at that time not aware that UPS policy prohibited the use of any type of fan in its vehicles.

On August 19, 1991, Steinkamp was observed leaving his bulkhead door open and unlocked while he was making a delivery. On August 22, 1991, UPS suspended Steinkamp for one day because of his repeated failure to follow instruction.

On September 6, 1991, the grievance panel which considered Steinkamp's grievance regarding fans in the delivery cars denied his claim and upheld the employer's ban on all types of fans in the delivery vehicles. The panel decision clearly delineated that no fans - whether wired into the electrical system, battery operated or otherwise - were permitted. On or about September 9, 1991, Drake asked Steinkamp if he heard about the decision regarding his grievance and Steinkamp said that he had.

On October 4, 1991, after investigating a customer complaint in Edgewater Florida, Drake saw Steinkamp's package car on the street. When Drake approached the parked vehicle he saw two operating battery powered fans mounted in the cab area. Steinkamp was removed from service and subsequently discharged for failing to follow instructions regarding the use of fans in his truck.

Steinkamp challenged his discharge though the grievance procedure. On October 22, 1991, Steinkamp's grievance was heard by a Joint Area Committee. Mr. Steinkamp was represented by Carl Croslin, a Business Agent for Local Union 385, and also made a presentation to the Committee on his own behalf. Mr. Steinkamp did not know the members of the Committee. After hearing the evidence the Committee voted to reinstate Mr. Steinkamp without back pay.

The gravamen of Mr. Steinkamp's protest is that his employer and his Local Union discriminated against him because of his political activity in violation of Article VIII, Section 10 of the *Rules*. The employer contends that Steinkamp was not terminated because of his campaign activity but because he repeatedly failed to follow instruction regarding, *inter alia*, the use of fans in his delivery car. Because Steinkamp claims he was disciplined for an improper purpose and his employer contends that he was terminated for a proper purpose unrelated to his campaign activity, the Election Officer is required to apply the analysis set forth in Wright Line, 251 NLRB 10182, 105 LRRM 1169 (1980), aff'd, 662 F.2d 899 (1st Cir. 1981), cert denied 455 U.S. 989 (1982). The Wright Line rule requires:

that the [complaining party] make a prima facie showing sufficient to support an inference that protected conduct was a "motivating factor" in the employer's decision. Once this is established, the burden will shift to the employer to demonstrate that the same action would have taken place even in the absence of the protected conduct.

105 LRRM 1175. The Board's Wright Line test for resolving mixed motive cases was

drawn from the Supreme Court's decision in Mt. Healthy City School District Board of Education v. Doyle, 429 U.S. 274 (1979). The Supreme Court upheld the Board's Wright Line analysis in NLRB v. Transportation Management Corp., 462 U.S. 393 (1983). This analysis has been affirmed by the Independent Administrator in a number of cases alleging discharges in violation of the *Rules*. See, e.g., In Re: Coleman, 90-Elec. App.-18 (SA); In Re: Braxton, 91-Elec. App.-108 (SA).

Applying the Wright Line analysis to the facts of this case and assuming, for the sake of analysis, that Steinkamp has made out a prima facie case on the basis of his election related activity, the Election Officer finds that UPS would have taken the action in question even in the absence of Steinkamp's election activity.<sup>4</sup> Steinkamp was informed on several occasions about the employer's policy on fans. He failed to remove the fan which was wired to his delivery car's electrical system after being told to do so. Similarly, after being told on several occasions that the employer's ban on fans included battery powered fans he persisted in keeping a battery powered fan in his truck. Moreover, at the same time that Steinkamp refused to follow his employer's instruction regarding fans he also failed to follow instructions regarding closing the bulkhead door of his truck. Given these facts, the Election Officer concludes that UPS would have taken the same action against Steinkamp regardless of his election activity.

Steinkamp's claim against the Local Union is similarly without merit. Mr. Steinkamp offered no evidence that Local Union discriminated against him with respect to the processing of his grievance challenging his discharge. Moreover, it appears that the case was adequately presented to the Joint Area Committee by Steinkamp and by his business agent and that there is no basis for concluding that the members of the panel were aware of, or adversely influenced by, Steinkamp's election activity.

In light of the foregoing, the instant 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,

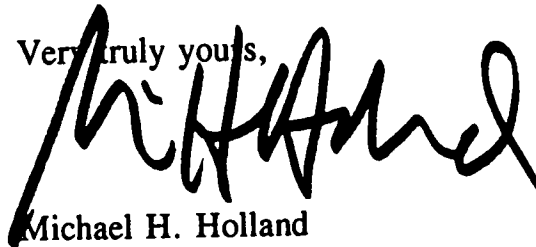
---

<sup>4</sup> It should be emphasized however that the Election Officer makes no finding that UPS' action in enforcing its no fan policy was reasonable or in conformity with the applicable collective bargaining agreement. The Election Officer only concludes that UPS would treat other employees who were not politically active and who repeated violated this policy in the same way that it treated Mr. Steinkamp.

James A. Steinkamp  
Page 5

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,

A handwritten signature in black ink, appearing to read "Michael H. Holland". The signature is written in a cursive style with a large, sweeping initial "M".

Michael H. Holland

cc: Frederick B. Lacey, Independent Administrator  
Don Williams, Regional Coordinator