

UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY
Office of Administrative Law Judges
WASHINGTON, D.C. 20424-0001

TIDEWATER VIRGINIA FEDERAL EMPLOYEES METAL TRADES COUNCIL, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 734 Respondent	
and STEPHEN SQUIRES Charging Party	Case No. WA-CO-50307

NOTICE OF TRANSMITTAL OF DECISION

The above-entitled case having been heard before the undersigned Administrative Law Judge pursuant to the Statute and the Rules and Regulations of the Authority, the undersigned herein serves his Decision, a copy of which is attached hereto, on all parties to the proceeding on this date and this case is hereby transferred to the Federal Labor Relations Authority pursuant to 5 C.F.R. § 2423.26(b).

PLEASE BE ADVISED that the filing of exceptions to the attached Decision is governed by 5 C.F.R. §§ 2423.26(c) through 2423.29, 2429.21 through 2429.25 and 2429.27.

Any such exceptions must be filed on or before **DECEMBER 2, 1996**, and addressed to:

Federal Labor Relations Authority
Office of Case Control
607 14th Street, NW, 4th Floor
Washington, DC 20424-0001

WILLIAM B. DEVANEY
Administrative Law Judge

Dated: October 31, 1996
Washington, DC

UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY
Office of Administrative Law Judges
WASHINGTON, D.C. 20424-0001

MEMORANDUM

DATE: October 31, 1996

TO: The Federal Labor Relations Authority

FROM: WILLIAM B. DEVANEY
Administrative Law Judge

SUBJECT: TIDEWATER VIRGINIA FEDERAL
EMPLOYEES METAL TRADES COUNCIL,
INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, LOCAL 734

Respondent

and Case No. WA-
CO-50307

STEPHEN SQUIRES

Charging Party

Pursuant to section 2423.26(b) of the Rules and Regulations, 5 C.F.R. § 2423.26(b), I am hereby transferring the above case to the Authority. Enclosed are copies of my Decision, the service sheet, and the transmittal form sent to the parties. Also enclosed are the transcript, exhibits and any briefs filed by the parties.

Enclosures

UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY
OFFICE OF ADMINISTRATIVE LAW JUDGES
WASHINGTON, D.C. 20424-0001

TIDEWATER VIRGINIA FEDERAL EMPLOYEES METAL TRADES COUNCIL, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 734 Respondent	
and STEPHEN SQUIRES Charging Party	Case No. WA-CO-50307

Michelle Ledina, Esquire
For the General Counsel

Mr. Samuel Williams
For the Respondent

Before: WILLIAM B. DEVANEY
Administrative Law Judge

DECISION

Statement of the Case

This proceeding, under the Federal Service Labor-Management Relations Statute, Chapter 71 of Title 5 of the United States Code, 5 U.S.C. § 7101, et seq. 1, and the Rules and Regulations issued thereunder, 5 C.F.R. § 2423.1, et seq., concerns whether Respondent violated the Statute when the members of Local 734 voted to deny Stephen F. Squires member-ship for reasons other than the failure to meet reasonable occupational standards uniformly required or the failure to tender dues uniformly required. For reasons set forth hereinafter, I find that Local 734 violated the Statute as charged in the Complaint.

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For convenience of reference, sections of the Statute hereinafter are, also, referred to without inclusion of the initial "71" of the statutory reference, i.e., Section 7116 (b) (1) will be referred to, simply, as, "16(b) (1)".

This case was initiated by a charge filed on March 13, 1995, (G.C. Exh. 1(a)); the Complaint and Notice of Hearing issued on May 16, 1996; and set the hearing for August 22, 1996, pursuant to which a hearing was duly held on August 22, 1996, in Norfolk, Virginia, before the undersigned. All parties were represented at the hearing, were afforded full opportunity to be heard and to introduce evidence bearing on the issues involved. At the conclusion of the testimony, I stated that, inasmuch as there was no dispute as to any material fact, I intended to grant General Counsel's Motion For Summary Judgment (Tr. 24), unless Respondent persuaded me to the contrary and Respondent was invited to file a post-hearing Brief in opposition to the Motion For Summary Judgment (Tr. 24-25); directed General Counsel to submit proposed findings and conclusions of law; and fixed September 4, 1996, as the date for mailing proposed findings and conclusions of law and any post-hearing Brief by Respondent (Tr. 26). General Counsel failed to file proposed findings and conclusions of law, as directed, but did timely file on September 4, 1996, a Memorandum in Support of Motion For Summary Judgment. Respondent did not timely file a response; however, the Metal Trades Department on September 10, 1996, mailed, ". . . opposition to the General Counsel's Memorandum in Support for Summary Judgment. . . ." This opposition was received on September 19, 1996. Because the opposition was untimely it is rejected and has not been considered for any purpose.

PRELIMINARY MATTER

The Tidewater Virginia Federal Employees Metal Trades Council is the exclusive representative of certain employees of the Norfolk Naval Shipyard (hereinafter, "Council"). The International Brotherhood of Electrical Workers, Local 734 ("Local 734"), is a constituent of the Council (Tr. 14) and an agent of the Council for the purpose of representing employees of the electrical craft at the Norfolk Naval Shipyard. General Counsel made clear at the hearing that the Council is not charged with any violation (Tr. 14-15); however, Respondent, Tidewater Virginia Federal Employees Metal Trades Council, International Brotherhood of Electrical Workers, Local 734, is charged with violating the Statute.

FINDINGS AND CONCLUSIONS

Mr. Stephen F. Squires, Junior, has been employed by the Norfolk Naval Shipyard as an electrician for 14 years and is in the bargaining unit represented by Local 734 (Tr. 10). Mr. Squires had been a member of Local 734 and served as a steward (Tr. 11, 16); however, in late 1989,

Mr. Squires terminated his membership in Local 734 (G.C. Exh. 2; Tr. 11). In 1993 or 1994 (Tr. 18, 19), the United Association of Federal Employees (UAFE) challenged the Council as exclusive representative and Mr. Squires was an alternate observer for UAFE at the election (G.C. Exh. 1(c); Enclosure 2; Tr. 12, 19); but did not campaign for UAFE (Tr. 16-17); did not attend any organizational meetings of UAFE (Tr. 17); and was not "in line" to be an officer or representative of UAFE (Tr. 17).

On October 18, 1994, Mr. Squires signed a Standard Form 1187, "Request For Payroll Deductions For Labor Organization Dues" (G.C. Exh. 3) and an IBEW "Obligation of I.B.E.W." [application for membership] (G.C. Exh. 4; Tr. 12, 13); but his membership application was rejected (Tr. 14, 15). Mr. Samuel L. Williams, President of Local 734, in a letter dated June 10, 1996, represented that Mr. Squires' application had been rejected on January 4, 1995, by the membership because Mr. Squires, ". . . during the challenge election between the Tidewater Virginia Federal Employees Metal Trades Council, AFL-CIO, and the U.A.F.E., . . . worked as a U.A.F.E. supporter and a listed observer for the election process . . . The membership considered that . . . [Mr. Squires'] 'good character' within our Constitution has not been advanced by same. . . ." (G.C. Exh. 1(c); Tr. 9, 19).

§ 16(c) of the Statute provides,

"(c) For the purpose of this chapter it shall be an unfair labor practice for an exclusive representative to deny membership to any employee in the appropriate unit represented by such exclusive representative except for failure-

"(1) to meet reasonable occupational standards uniformly required for admission, or

"(2) to tender dues uniformly required as a condition of acquiring and retaining membership." (5 U.S.C. § 7116(c)).

The Authority consistently has held that § 16(c) means precisely what it says and that a labor organization violates §§ 16(b)(1) and (8) of the Statute, if it denies membership for any reason except failure to meet reasonable occupational standards or failure to tender dues, as set forth in § 16(c). American Federation of Government Employees, Local 987, Warner Robins, Georgia and Nedra T. Bradley, 46 FLRA 1048 (1992), enf'd. No. 93-8222 (11th Cir. Jan. 28, 1994); American Federation of Government Employees, Local 2344, AFL-CIO and Carol Ramey, 45 FLRA 1004 (1992), enf'd. No. 92-1560 D.C. Cir. Jan. 31, 1994).

Mr. Squires tendered dues uniformly required as a condition of acquiring and retaining membership by submitting a Form 1187 and he met all occupational standards uniformly required for admission. Further, Mr. Squires submitted the required application for membership, i.e. the signed, "Obligation of I.B.E.W.". Local 734 by denying him membership for a reason other than the failure to meet reasonable occupational standards or the failure to tender dues, as set forth in § 16(c) of the Statute, violated §§ 16 (b) (1) and (8) of the Statute. I fully agree with General Counsel that, "There is no merit to the Respondent's contention that its constitution provides an acceptable basis for denying membership The record shows that the Charging Party was not a member . . . during the time of the rival union's organizational efforts to decertify . . . and, therefore, was not subject to the Respondent's constitution. . . ." (General Counsel's Memorandum, p. 4).

There being no genuine issue of fact, General Counsel's Motion For Summary Judgment is granted and it is recommended that the Authority adopt the following:

ORDER

Pursuant to § 2423.29 of the Authority's Rules and Regulations, 5 C.F.R. § 2423.29, and § 18 of the Statute, 5 U.S.C. § 7118, it is hereby ordered that the International Brotherhood of Electrical Workers, Local 734, shall:

1. Cease and desist from:

(a) Denying membership to Stephen F. Squires, Jr., or any other eligible employee in the exclusive collective bargaining unit represented by the Tidewater Virginia Federal Employees Metal Trades Council, except for failure (1) to meet reasonable occupational standards uniformly required for admission, or (2) to tender dues uniformly required as a condition of acquiring and retaining membership.

(b) In any like or related manner interfering with, restraining, or coercing any employee in the exercise of any right assured under the Statute.

2. Take the following affirmative action in order to effectuate the purposes and policies of the Statute:

(a) Process, upon his request, Stephen F. Squires, Jr.'s Request For Payroll Deductions For Labor Organization Dues, Form SF-1187, and, upon his request, admit Stephen F. Squires, Jr. to membership in IBEW, Local 734.

(b) Post at the business office of the Tidewater Virginia Federal Employees Metal Trades Council, at the business of the International Brotherhood of Electrical Workers, Local 734, and in all normal meeting places, including all places where notices to members of, and unit employees exclusively represented by, the Tidewater Virginia Federal Employees Metal Trades Council, are customarily posted, copies of the attached Notice on forms to be furnished by the Federal Labor Relations Authority. Upon receipt of such forms, they shall be signed by the President of IBEW, Local 734, and shall be posted and maintained for 60 consecutive days thereafter, in conspicuous places, including all bulletin boards and other places where Notices to employees are customarily posted. Reasonable steps shall be taken to ensure that such notices are not altered, defaced, or covered by any other material.

(c) Submit signed copies of said Notice to the Norfolk Naval Shipyard for posting in conspicuous places throughout the Shipyard where employees represented by the Tidewater Virginia Federal Employees Metal Trades Council are located, where they shall be maintained for 60 consecutive days from the date of posting.

(d) Pursuant to § 2423.30 of the Authority's Rules and Regulations, 5 C.F.R. § 2423.30, the President of IBEW Local 734, shall notify the Regional Director, Washington Regional, Federal Labor Relations Authority, 1255 22nd Street, NW, 4th Floor, Washington, DC 20037-1206, in writing, within 30 days from the date of this Order, as to what steps have been taken to comply herewith.

WILLIAM B. DEVANEY
Administrative Law Judge

Dated: October 31, 1996
Washington, DC

NOTICE TO OUR MEMBERS AND ALL EMPLOYEES

POSTED BY ORDER OF THE

FEDERAL LABOR RELATIONS AUTHORITY

The Federal Labor Relations Authority has found that Tidewater Virginia Federal Employees Metal Trades Council, International Brotherhood of Electrical Workers, Local 734, violated the Federal Service Labor-Management Relations Statute and has ordered us to post and abide by this notice.

WE HEREBY NOTIFY OUR MEMBERS AND ALL EMPLOYEES THAT:

WE WILL NOT deny membership in IBEW Local 734 to Stephen F. Squires, Jr., or to any other eligible employee in the exclusive bargaining unit represented by the Tidewater Virginia Federal Employees Metal Trades Council, except for failure (1) to meet reasonable occupational standards uniformly required for admission, or (2) to tender dues uniformly required as a condition of acquiring and retaining membership.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce any employee in the exercise of any right assured by the Federal Service Labor-Management Relations Statute.

WE WILL, upon his request, process Stephen F. Squires, Jr.'s Request For Payroll Deductions For Labor Organization Dues, Form 1187.

WE WILL, upon his request, admit Stephen F. Squires, Jr. to membership in IBEW Local 734.

Employees
International
Workers,

Tidewater Virginia Federal
Metal Trades Council,
Brotherhood of Electrical
Local 734

Date: _____ By: _____
(Signature) (Title)

This Notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced or covered by any other material.

If employees have any questions concerning this Notice, or compliance with any of its provisions, they may communicate directly with the Regional Director, Washington Region, Federal Labor Relations Authority, whose address is: 1255 22nd Street, NW, 4th Floor, Washington, DC 20037-1206, and whose telephone number is: (202) 653-8500.

CERTIFICATE OF SERVICE

I hereby certify that copies of this DECISION issued by WILLIAM B. DEVANEY, Administrative Law Judge, in Case No.

WA-CO-50307, were sent to the following parties in the manner indicated:

CERTIFIED MAIL:

Michelle Ledina, Esquire
Federal Labor Relations Authority
1255 22nd Street, NW, 4th Floor
Washington, DC 20037-1206

Samuel Williams, President
International Brotherhood of
Electrical Workers, Local 734
78 Afton Parkway
Portsmouth, VA 23702

REGULAR MAIL:

Mr. Stephen Squires, Jr.
1116 Canal Drive
Chesapeake, VA 23323

Tidewater Virginia Federal Employees
Metal Trades Council, International
Brotherhood of Electrical Workers,
Local 734
P.O. Box 2440
Portsmouth, VA 23702-2440

John F. Meese, President
Metal Trades Department, AFL-CIO
815 16th Street, Suite 503
Washington, DC 20006

Dated: October 31, 1996
Washington, DC