

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

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DEPARTMENT OF THE NAVY,
NAVAL PLANT REPRESENTATIVE
OFFICE, SIKORSKY AIRCRAFT
(STRATFORD, CT)

Respondent

and

NATIONAL ASSOCIATION OF
GOVERNMENT EMPLOYEES,
LOCAL R1-143

Charging Party

.

Case No. 1-CA-70355

Thomas F. Wood, Esq. and
Richard H. Greenberg, Esq.
For the Respondent

Peter F. Dow, Esq.
For the General Counsel

Before: SALVATORE J. ARRIGO
Administrative Law Judge

DECISION

Statement of the Case

This case arose under the Federal Service Labor-Management Relations Statute, Chapter 71 of Title 5 of the U.S. Code, 5 U.S.C. section 7101, et seq. (herein the Statute).

Upon an unfair labor practice charge having been filed by the captioned Charging Party against the captioned Respondent, the General Counsel of the Federal Labor Relations Authority (herein the Authority), by the Regional

Director for Region I, issued a Complaint and Notice of Hearing alleging Respondent violated the Statute when Respondent refused to furnish the National Association of Government Employees, Local R1-143 (herein the Union) the names and current home addresses of bargaining unit employees which the Union had requested. Respondent filed an Answer and an Amended Answer to the Complaint in which some of the allegations were admitted and others denied.

Subsequently, counsel for the General Counsel filed with the Regional Director a Motion for Summary Judgment with supporting documents. The matter was then transferred to the Office of Administrative Law Judges for ruling pursuant to section 2423.22(b) of the Rules and Regulations of the Authority. Thereupon counsel for Respondent filed an opposition to counsel for the General Counsel's motion for summary judgment and a memorandum in support of the opposition. Based upon my review and evaluation of the entire record before me, I make the following:

Findings of Fact

1. At all times material Respondent has been an agency within the meaning of section 7103(a)(3) of the Statute.
2. At all times material the Union has been a labor organization within the meaning of section 7103(a)(4) of the Statute.
3. At all times material the Union has been recognized by Respondent as the exclusive collective bargaining representative of an appropriate unit of employees consisting of all non-professional employees employed by Respondent at its Naval Plant Representative Office in Stratford, Connecticut.
4. On or about August 3, 1987, and continuing to date, the Union made a request to the Respondent that it furnish the Union with the names and current home addresses of all employees in the bargaining unit described in paragraph 5, below.
5. On or about August 6, 1987, and continuing to date, Respondent failed and refused to furnish the Union the data described in paragraph 4, above.

6. The data described in paragraph 4, above is: normally maintained by Respondent in the regular course of business; reasonably available and necessary for full and proper discussion, understanding and negotiation of subjects within the scope of collective bargaining, and; does not constitute guidance, advice, counsel or training for management officials or supervisors relating to collective bargaining. Further, the disclosure of the data described in paragraph 4, above, is not prohibited by law.

Discussion and Conclusions

The General Counsel, relying on the Authority's decision in Farmers Home Administration Finance Office, St. Louis, Missouri, 23 FLRA 788 (1986), enforced in part and remanded sub nom. U.S. Department of Agriculture and Farmers Home Administration Finance Office, St. Louis, Missouri v. FLRA, No. 86-2579 (8th Cir. Jan. 15, 1988), contends Respondent violated section 7116(a)(1), (5) and (8) of the Statute when it refused to furnish the Union with the names and current home addresses of all bargaining unit employees. Respondent opposes summary judgment contending that alternative means exist for the Union to communicate with employees and therefore the information requested is not necessary for full and proper discussion, understanding and negotiation of subjects within the scope of collective bargaining. Respondent also contends that furnishing the information is prohibited by law (the Privacy Act, 5 USC 552a, as it interacts with the Freedom of Information Act, 5 USC 552). Further, Respondent asserts that because of the above contentions, "material factual issues are still in dispute" requiring a hearing. By Order dated December 24, 1987 I provided Respondent an opportunity to provide a written offer of proof as to specifically what material factual matters it would establish concerning its contentions if a hearing was held. No response was received.

Section 7114(b)(4) of the Statute provides in relevant part:

"(b) the duty of an agency and an exclusive representative to negotiate in good faith under subsection (a) of this section shall include the obligation . . .

"(4) in the case of an agency, to furnish to the exclusive representative, upon request and, to the extent not prohibited by law, data --

"(A) which is normally maintained by the agency in the regular course of business; (and)

"(B) which is reasonably available and necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining . . ."

In Farmers Home Administration Finance Office, supra, the Authority held: (1) the disclosure of the names and addresses of bargaining unit employees to the exclusive representative was not prohibited by the Privacy Act; (2) an agency's possession of Official Personnel Files wherein can be found employees' addresses satisfies the requirements of section 7114(b)(4)(A) and (B) of the Statute that such data be normally maintained by the agency and reasonably available, and; (3) such data was necessary under section 7114(b)(4)(B) for unions to meet their statutory obligation to represent the interests of all employees in the unit without discrimination as required by section 7114(a)(1) of the Statute, notwithstanding the existence of alternative means by which a union might communicate to unit employees. In subsequent decisions the Authority followed Farmers Home Administration in deciding numerous cases which involved similar issues. Philadelphia Naval Shipyard, 24 FLRA 37 (1986); Defense Mapping Agency Aerospace Center, St. Louis, Missouri, 24 FLRA 43 (1986); Social Security Administration, Northeastern Program Service Center, 24 FLRA 108 (1986); Department of the Navy, Portsmouth Naval Shipyard, 24 FLRA 209 (1986); Department of the Air Force, Scott Air Force Base, 24 FLRA 226 (1986); Department of Health and Human Services, Region V, 26 FLRA 460 (1987); Air Force District of Washington, 26 FLRA 542 (1987); Departments of the Army and Air Force, Army and Air Force Exchange Service Headquarters, Dallas, Texas and Army and Air Force Exchange Service, McClellan Air Force Base, California, 26 FLRA 691 (1987); 831 Combat Support Group (TAC), George Air Force Base, California, 28 FLRA No. 16 (1987); and United States Department of Health and Human Services, Social Security Administration v. FLRA, Nos. 87-3513(L), 87-3514, 87-3515 (4th Cir. Nov. 25, 1987), affirming Department of Health and Human Services, Social Security Administration, 24 FLRA 543 (1986).

The facts presented herein and the arguments raised by Respondent are not significantly different from those considered by the Authority in Farmers Home Administration

and cases which followed thereafter, supra. In view of Respondent's failure to respond to my Order to explain what "factual matters" it would submit if a hearing was held and the Authority's holdings in the above cases, I deny Respondent's opposition to the General Counsel's motion for summary judgment and I conclude Respondent's defenses to its failure and refusal to provide the Union with the names and current home addresses of unit employees as requested by the Union to be without merit. I further conclude Respondent was obligated under section 7114(b) of the Statute to furnish the Union with the names and addresses of unit employees and accordingly, I conclude Respondent's refusal to furnish such data violated section 7116(a)(1), (5) and (8) of the Statute and grant counsel for General Counsel's motion for summary judgment. Therefore I recommend the Authority issue the following:

ORDER

Pursuant to Section 2423.29 of the Rules and Regulations of the Federal Labor Relations Authority and section 7118 of the Statute, the Authority hereby orders that Department of the Navy, Naval Plant Representative Office, Sikorsky Aircraft (Stratford, Connecticut), shall:

1. Cease and desist from:

(a) Refusing to furnish, upon request of the National Association of Government Employees, Local R1-143, the exclusive representative of certain of its employees, the names and current home addresses of all employees in the bargaining unit it represents.

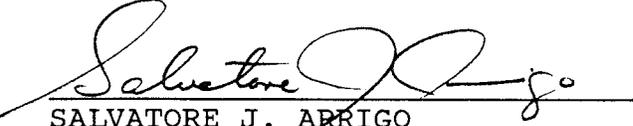
(b) In any like or related manner, interfering with, restraining, or coercing its employees in the exercise of the rights assured them by the Federal Service Labor-Management Relations Statute.

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

(a) Furnish the National Association of Government Employees, Local R1-143, the exclusive representative of certain of its employees, the names and current home addresses of all employees in the bargaining unit it represents.

(b) Post at all facilities where bargaining unit employees represented by the National Association of Government Employees, Local R1-143, are located, 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 a senior official of Naval Plant Representative Office, Sikorsky Aircraft (Stratford, CT), 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) Pursuant to section 2423.30 of the Authority's Rules and Regulations notify the Regional Director, Region I, Federal Labor Relations Authority, 10 Causeway Street, Room 1017, Boston, Massachusetts 02222-1046, in writing, within 30 days from the date of this Order, as to what steps have been taken to comply herewith.


SALVATORE J. ARRIGO
Administrative Law Judge

Dated: February 29, 1988
Washington, D.C.

APPENDIX

NOTICE TO ALL EMPLOYEES

PURSUANT TO

A DECISION AND ORDER OF THE

FEDERAL LABOR RELATIONS AUTHORITY

AND IN ORDER TO EFFECTUATE THE POLICIES OF

CHAPTER 71 OF TITLE 5 OF THE

UNITED STATES CODE

FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS STATUTE

WE HEREBY NOTIFY OUR EMPLOYEES THAT:

WE WILL NOT refuse to furnish, upon request of the National Association of Government Employees, Local R1-143, the exclusive representative of certain of our employees, the names and current home addresses of all employees in the bargaining unit it represents.

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

WE WILL furnish the National Association of Government Employees, Local R1-143, the exclusive representative of certain of our employees, the names and current home addresses of all employees in the bargaining unit it represents.

(Activity)

Dated: _____ 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 of the Federal Labor Relations Authority, Region I, whose address is:
10 Causeway Street, Room 1017, Boston, Massachusetts
02222-1046, and whose telephone number is:
(617) 565-7280.