

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

.....
UNITED STATES DEPARTMENT
OF INTERIOR, WASHINGTON,
D.C. AND NATIONAL PARK
SERVICE, WASHINGTON,
D.C. AND NATIONAL PARK
SERVICE REGIONAL OFFICE,
ATLANTA, GEORGIA AND BLUE
RIDGE PARKWAY, ASHEVILLE,
NORTH CAROLINA

Respondents

and

Case No. 4-CA-70473

AMERICAN FEDERATION OF
GOVERNMENT EMPLOYEES,
LOCAL 446

Charging Party

.....
Gerald J. Rachelson, Esquire
For the Respondents

James R. Puhger, Esquire
For the General Counsel

Before: WILLIAM B. DEVANEY
Administrative Law Judge

DECISION

Statement of the Case

This matter, 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 Final Rules and Regulations issued thereunder, 5 C.F.R. § 2423.1, et seq.,

^{1/} For convenience of reference, sections of the Statute hereinafter are, also, referred to without inclusion of the initial "71" of the statutory reference, e.g., Section 7116(a)(8) will be referred to, simply, as "§ 16(a)(8)."

concerns a refusal to furnish the American Federation of Government Employees, Local 446 (Union) with the names and home addresses of bargaining unit employees. General Counsel's Motion For Summary Judgment is granted and Respondents' Cross-Motion For Summary Judgment is denied for reasons fully set forth hereinafter.

This case was initiated by a charge filed on April 20, 1987 (G.C. Exh. 1(a))^{2/} and by a First Amended Charge filed on June 24, 1987 (G.C. Exh. 1(c)), each of which alleged violations of § 16(a)(1), (5) and (8) of the Statute. The Complaint and Notice of Hearing issued on July 7, 1987 (G.C. Exh. 1(e)); and an Amended Complaint and Notice of Hearing (G.C. Exh. 1(g)) issued on August 25, 1987, and, rescheduled the hearing for September 23, 1987. Respondents filed an Answer to the Amended Complaint on, or about, September 11, 1987 (G.C. Exh. 1(h)).

By Order dated September 23, 1987, the hearing, set for September 23, 1987, was indefinitely postponed because summary judgment proceedings had been initiated. On September 23, 1987, General Counsel filed a Motion For Summary Judgment, and a memorandum in support of his Motion, with the Regional Director, pursuant to § 2423.22(a) of the Rules and Regulations, 5 C.F.R. § 2423.22(a), which the Regional Director, by Order dated September 23, 1987, pursuant to § 2423.22(b)(1) of the Rules and Regulations, 5 C.F.R. § 2423.22(b)(1), referred to the Chief Administrative Law Judge for ruling. On or about, October 14, 1987, Respondents filed an Opposition To General Counsel's Motion For Summary Judgment and a Cross-Motion For Summary Judgment And Dismissal of the Complaint. On, or about, October 21, 1987, General Counsel filed an Opposition To Respondents' Cross-Motion For Summary Judgment and reply to Respondents' opposition to General Counsel's Motion For Summary Judgment, which was received by this Office on October 26, 1987. No further pleadings or briefs were filed; the record was closed; and this matter was duly delegated to the undersigned for disposition.

Findings and Discussion

1. The Amended Complaint alleged, and Respondents admitted, that the Union is the exclusive representative of certain employees of Blue Ridge Parkway (Activity) in a bargaining unit more fully described in Paragraph 4 of the

^{2/} General Counsel's exhibits are attached to Counsel For The General Counsel's Motion For Summary Judgment.

Amended Complaint; that on, or about, December 8, 1986, the Union made a request to Activity for the names and home addresses of bargaining unit employees (see, G.C. Exh. 2); Respondents admit that Activity on, or about December 10, 1986, informed the Union that it could not comply with or deny the request but had forwarded the Union's request to the Activity's Regional Office, National Park Service Regional Office, Atlanta, Georgia (NPS Atlanta); admit that Activity never responded to the Union's request, although the Activity did on, or about, April 24, 1987, offer to distribute Union material in sealed envelopes through the internal mail system; and admit that the names and home addresses were never provided to the Union.

2. Respondents deny that either NPS Atlanta or the National Park Service, Washington, D.C., directed Activity to engage in any of the actions described in Paragraph 7 of the Complaint; but admit that the United States Department of the Interior (Agency), of which the National Park Service is a constituent Bureau in which NPS Atlanta and Activity are organizational entities, did direct Activity to engage in the actions described in Paragraph 7 of the Complaint, i.e., to fail and refuse to furnish the Union with the names and home addresses of bargaining unit employees. Since Respondents' Answer to the Amended Complaint shows that National Park Service, Washington, D.C. and NPS Atlanta did not direct Activity to take any part in the actions set forth in Paragraph 7 of the Amended Complaint, and there is no other evidence to the contrary, the Complaint insofar as it alleges that either the National Park Service, Washington, D.C. or NPS Atlanta failed to comply with § 14(b)(4) and violated § 16(a)(1), (5) and (8) of the Statute must be dismissed. Further, since Respondents' Answer to the Amended Complaint admits, as alleged in Paragraph 8(c) of the Amended Complaint, that Activity acted at the direction of Agency, Activity's actions were merely ministerial in nature and, accordingly, the allegations of the Complaint against Activity must also be dismissed. Veterans Administration, Washington, D.C. and Veterans Administration Medical Center, Veterans Administration, New Orleans, Louisiana, 29 FLRA No. 6, 29 FLRA 55 (1987); Veterans Administration, Washington, D.C. and Dallas Veterans Administration Medical Center, Veterans Administration, Dallas, Texas, 31 FLRA No. 48, 31 FLRA 740 (1988).

3. The Amended Complaint alleged that names and home addresses are maintained by Respondents in the regular course of business which Respondents deny but Respondents admit that names and home addresses do appear on various

documents, completed by employees at various times, which are contained in the employees official personnel files in the custody of the Regional Personnel Office; however, Respondents state that they make no effort to keep such files current or up-to-date.

4. Respondents admit that the names and home addresses contained in personnel files, as set forth in Paragraph 3, above, are reasonably available and do not constitute guidance, advice, counsel or training provided for management officials or supervisors relating to collective bargaining; but deny that names and home addresses are, "necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining."

Conclusions

While Respondents denied that names and home addresses are normally maintained in the regular course of business, Respondents admit that they maintain official personnel files which contain various documents on which the employee's home address appears, although Respondents make no effort to keep the home addresses current or up-to-date, and Respondents further admit that the names and home addresses from the personnel files are reasonably available. Accordingly, there is no factual dispute that names and home addresses appear in official personnel files and that such information as Respondents have is reasonably available. Accordingly, this matter is appropriate for decision on the Motion and Cross-Motion For Summary Judgment. The facts, as well as the contentions of Respondents, are substantially the same as were present in Farmers Home Administration Finance Office, St. Louis, Missouri, 23 FLRA 788 (1986), enf'd in part and remanded sub nom., U.S. Department of Agriculture and Farmers Home Administration Finance Office, St. Louis, Missouri v. FLRA, 836 F.2d 1139 (8th Cir. 1988). See, also, Department of the Navy, Naval Plant Representative Office, Sikorsky Aircraft (Stratford, CT), 32 FLRA No. 97, 32 FLRA 675, 676 (1988). The Authority held that the release of names and home addresses of bargaining unit employees to the exclusive representative of those employees is not prohibited by law, is necessary for unions to fulfill their representational duties under the Statute, and meets all other requirements under § 14(b)(4) of the Statute. Moreover, the Authority held that the release of names and home addresses is required without regard to whether alternative means of communication are available. To like effect, see: American Federation of Government Employees,

Local 1760, AFL-CIO, v. FLRA, 786 F.2d 554 (2nd Cir. 1986); Philadelphia Naval Shipyard, 24 FLRA 37 (1986), enf'd sub nom. The United States Department of Navy and Philadelphia Naval Shipyard v. FLRA, 840 F.2d 1131 (3rd Cir. 1988); Department of the Air Force, Scott Air Force Base, Illinois, 24 FLRA 226 (1986), enf'd sub nom., United States Department of the Air Force, Scott Air Force Base Illinois, 838 F.2d 229 (7th Cir. 1988); Department of Health and Human Services, Social Security Administration, 24 FLRA 543 (1986); Department of Health and Human Services, Social Security Administration and Social Security Field Operations, New York Region, 24 FLRA 583 (1986), and Department of Health and Human Services, Social Security Administration, 24 FLRA 600 (1986), enf'd sub nom. United States Department of Health and Human Services, Social Security Administration v. FLRA, 833 F.2d 1129 (4th Cir. 1987); Veterans Administration, Washington, D.C. and Edith Nourse Rogers Memorial Veterans Administration Hospital (Bedford, Massachusetts), 27 FLRA 775 (1987); Veterans Administration, Washington, D.C. and Veterans Administration Supply Depot, Hines, Illinois, et al., 31 FLRA No. 86, 31 FLRA 1061 (1988); Veterans Administration, Washington, D.C. and Veterans Administration Medical Center, Fargo, North Dakota, 30 FLRA No. 51, 30 FLRA 391 (1987); Department of the Navy and Naval Station, Norfolk, Virginia, 32 FLRA No. 49, 32 FLRA 317 (1988); Bureau of Engraving and Printing, 32 FLRA No. 81, 32 FLRA 551 (1988). By directing the Activity not to provide the Union with the requested names and home addresses, Agency improperly prevented the Activity from complying with § 14(b)(4) of the Statute and improperly interfered with the local bargaining relationship between the Union and Activity. Agency was responsible for the failure and refusal to comply with § 14(b)(4) and it thereby violated § 16(a)(1), (5) and (8) of the Statute. Moreover, by improperly interfering with the local bargaining relationship between the Union and Activity, Agency further violated § 16(a)(1) and (5) of the Statute. Accordingly, General Counsel's Motion For Summary Judgment is granted in part, as to Respondent Agency, and is denied in part, as to all other Respondents, and Respondents' Cross-Motion For Summary Judgment is denied. It is recommended that the Authority adopt the following:

ORDER

Pursuant to § 2423.29 of the Rules and Regulations, 5 C.F.R. § 2423.29, and § 18 of the Statute, 5 U.S.C.

§ 7118, the Authority hereby orders that the United States Department of the Interior, Washington, D.C., shall:

1. Cease and desist from:

(a) Directing the Blue Ridge Parkway, Asheville, North Carolina and/or the Regional Personnel Office to refuse to furnish, upon request of the American Federation of Government Employees, Local 446, the exclusive representative of a bargaining unit of employees of Blue Ridge Parkway, the names and home addresses of employees in the bargaining unit.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of their rights assured by the Statute.

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

(a) Furnish the American Federation of Government Employees, Local 446, with the names and home addresses of all employees in the bargaining unit it represents.

(b) Post at all facilities where bargaining unit employees represented by the American Federation of Government Employees, Local 446, 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 the Secretary of Interior, and shall be posted in conspicuous places, including all bulletin boards and other places where notices to employees are customarily posted, and shall be posted and maintained for 60 consecutive days thereafter. Reasonable steps shall be taken to ensure that such notices are not altered, defaced, or covered by any other material.

(c) Pursuant to § 2423.30 of the Rules and Regulations, 5 C.F.R. § 2423.30, notify the Regional Director, Region IV, Federal Labor Relations Authority, Suite 736, 1371 Peachtree Street, N.E., Atlanta, Georgia 30367, in writing, within 30 days from the date of this Order as to what steps have been taken to comply herewith.

It is further ordered that the allegations in the Complaint against National Park Service, Washington, D.C.,

National Park Service Regional Office, Atlanta, Georgia, and
Blue Ridge Parkway, Asheville, North Carolina are dismissed.

Issued: Washington, D.C., August 15, 1988

William B. Devaney
WILLIAM B. DEVANEY
Administrative Law Judge

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 direct the Blue Ridge Parkway, Asheville, North Carolina and/or the Regional Personnel Office to refuse to furnish, upon request of the American Federation of Government Employees, Local 446, the exclusive representative of a bargaining unit of employees of Blue Ridge Parkway, the names and home addresses of employees in the bargaining unit.

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

WE WILL furnish the American Federation of Government employees, Local 446, with the names and 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 IV, whose address is: Suite 736, 1371 Peachtree Street, N.E, Atlanta, Georgia 30367, and whose telephone number is: (404) 347-2324.