

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

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FEDERAL AVIATION ADMINISTRATION,
AVIATION STANDARDS NATIONAL
FIELD OFFICE AIRCRAFT AND
ENGINEERING DIVISION,
OKLAHOMA CITY, OKLAHOMA

Respondent

and

Case No. 76-CA-00275

NATIONAL FEDERATION OF FEDERAL
EMPLOYEES, LOCAL 2097

Charging Party
.....

B. J. Edwards
Representative of the Respondent

Timothy J. Sullivan
Counsel for the General Counsel, FLRA

Before: GARVIN LEE OLIVER
Administrative Law Judge

Decision

Statement of the Case

The unfair labor practice complaint alleges that Respondent violated section 7116(a)(1), (5), and (8) of the Federal Service Labor-Management Relations Statute (the Statute) by refusing to furnish the Charging Party (Union), the exclusive representative of certain of Respondent's employees, the names and home addresses of bargaining unit employees represented by the Union.

On or about November 23, 1990, Counsel for the General Counsel moved for summary judgment. The Regional Director transferred the motion to the Chief Administrative Law Judge, pursuant to section 2423.22(b)(1) of the Regulations, and it was assigned to the undersigned for disposition pursuant to section 2423.19(k) and section 2423.22(b)(3) of the Regulations.

Respondent served its opposition on November 29, 1990. Respondent did not take issue with the material facts, but requested that the motion be denied as a matter of law based upon FLRA v. Dep't of the Treasury, Financial Management Service, 884 F.2d 1446 (D.C. Cir. 1989), cert. denied, 110 S. Ct. 863 (1990) (Dep't of the Treasury), in which the Court of Appeals for the District of Columbia Circuit held that the Privacy Act prohibited disclosure of employees' names and home addresses to the employees' exclusive representatives in light of the Supreme Court's decision in United States Dep't of Justice v. Reporters Committee for Freedom of the Press, 109 S. Ct. 1468 (1989) (Reporters Committee).

Based upon the entire record, and it appearing that there are no genuine issues of material fact and that the General Counsel is entitled to summary judgment as a matter of law, I make the following findings of fact, conclusions of law, and recommendations.

Findings of Fact

The National Federation of Federal Employees, Local 2097 is the exclusive representative of a unit of employees appropriate for collective bargaining with Respondent. On or about November 13 and December 12, 1989, the Union, by James Strahan, President, requested Wayne Jacox, Manager of Respondent's Oklahoma City facility, to furnish the names and home addresses of bargaining unit employees. Strahan stated that the "information is necessary for appropriate labor/management relations and contract administration" On or about December 1, 1989, and at all times since, Respondent, through Jacox, has failed and refused to furnish the Union with the requested information.

The names and home addresses of bargaining unit employees are normally maintained by Respondent in the regular course of business, are reasonably available, are necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining, and do not constitute guidance, advice, counsel, or training for management officials or supervisors relating to collective bargaining.

Discussion and Conclusions of Law

The decision in this case is controlled by the Authority's decision in U.S. Department of the Navy, Portsmouth Naval Shipyard, Portsmouth, New Hampshire,

37 FLRA 515 (1990) (Portsmouth Naval Shipyard), application for enforcement filed sub nom. FLRA v. U.S. Department of the Navy, Portsmouth Naval Shipyard, Portsmouth, New Hampshire, No. 90-1949 (1st Cir. Oct. 1, 1990). For the reasons fully set forth in Portsmouth Naval Shipyard the release of bargaining unit employees' names and home addresses is "necessary" within the meaning of the Statute and is not "prohibited by law." The Authority concluded in Portsmouth Naval Shipyard that it would not apply the approach of the D.C. Circuit in Dep't of the Treasury because, among other things, the D.C. Circuit did not harmonize the Federal Service Labor-Management Relations Statute, the Freedom of Information Act, and the Privacy Act.

The Union's request for the names and home addresses of unit employees satisfies the requirements of section 7114(b)(4). Therefore, the Respondent was required to provide the data requested by the Union, and the refusal to do so violated section 7116(a)(1), (5) and (8) of the Statute.

Based on the foregoing findings and conclusions, it is recommended that the Authority issue the following Order:

ORDER

Pursuant to section 2423.29 of the Federal Labor Relations Authority's Rules and Regulations and section 7118 of the Statute, it is hereby ordered that Federal Aviation Administration, Aviation Standards National Field Office, Aircraft and Engineering Division, Oklahoma City, Oklahoma shall:

1. Cease and desist from:

(a) Refusing to furnish, upon request of the National Federation of Federal Employees, Local 2097, the exclusive representative of certain of its employees, the names and 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 rights assured them by the Statute.

2. Take the following affirmative action in order to effectuate the purposes and policies of the Federal Service Labor-Management Relations Statute:

(a) Furnish the National Federation of Federal Employees, Local 2097, the exclusive representative of certain of its employees, the names and home addresses of all employees in the bargaining unit it represents.

(b) Post at its facilities 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 Manager 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 insure 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 VII, Federal Labor Relations Authority, Denver, Colorado, in writing, within 30 days from the date of this Order, as to what steps have been taken to comply herewith.

Issued, Washington, D.C., December 17, 1990.


GARVIN LEE OLIVER
Administrative Law Judge

NOTICE TO ALL EMPLOYEES

AS ORDERED BY THE FEDERAL LABOR RELATIONS AUTHORITY

AND TO EFFECTUATE THE POLICIES OF THE

FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS STATUTE

WE HEREBY NOTIFY OUR EMPLOYEES THAT:

WE WILL NOT refuse to furnish, upon request of the National Federation of Federal Employees, Local 2097, the exclusive representative of certain of our employees, the names and 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 the rights assured them by the Federal Service Labor-Management Relations Statute.

WE WILL furnish the National Federation of Federal Employees, Local 2097, the exclusive representative of certain of our employees, 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 VII, whose address is: 535 - 16th Street, Suite 310, Denver, Colorado 80202, and whose telephone number is: (303) 844-5224.