

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

DEPARTMENT OF VETERANS  
AFFAIRS MEDICAL CENTER  
COATESVILLE, PENNSYLVANIA

Respondent

and

Case No. BP-CA-20525

NATIONAL ASSOCIATION OF  
GOVERNMENT EMPLOYEES,  
LOCAL R3-35

Charging Party

Gary W. Devansky  
For the Respondent

Verne R. Smith, Esq.  
For the General Counsel

Before: WILLIAM NAIMARK  
Administration Law Judge

DECISION

Statement of the Case

This case arose under the Federal Service Labor-Management Relations Statute, 5 U.S.C. 7101 et seq. (herein called the Statute). Pursuant to a charge filed on February 10, 1992 by the National Association of Government Employees, Local R3-35 (herein called the Union), a Complaint and Notice of Hearing was issued on July 8, 1992 by the Regional Director, Boston Region, Federal Labor Relations Authority, against Department of Veterans Affairs Medical Center, Coatesville, Pennsylvania (herein called the Respondent).

The Complaint alleges, in substance, that Respondent violated section 7116(a)(1), (5) and (8) of the Statute by refusing to furnish the Union, upon request, the names and home addresses of the bargaining unit employees represented by the Union as required by section 7114(b)(4) of the Statute.

Respondent's Amended Answer to the Complaint was filed on August 6, 1992. It admitted as to the Complaint: (a) the jurisdictional allegations therein; (b) that on December 18, 1991 the Union requested the names and home addresses of bargaining unit employees; (c) that on December 26, 1991 Respondent refused to furnish the requested information to the Union; (d) that the names of unit employees are maintained and available<sup>\*</sup>; (e) that such information does not constitute guidance, advice, counsel, or training provided for management officials or supervisors relating to collective bargaining.

The Amended Answer denied that the information requested is necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining. It also denied that (a) the information is not prohibited by law; (b) Respondent committed an unfair labor practice as alleged in the Complaint.

Under date of August 13, 1992 the General Counsel filed a Motion For Summary Judgement.

By order dated August 13, 1992 the Regional Director referred the Motion to the Chief Administrative Law Judge pursuant to section 2423.22(b) of the Rules and Regulations. The case was duly assigned to the undersigned for disposition.

Respondent defends its failure to provide the data requested on the ground that it is not necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining. Further, it maintains that the information is prohibited by law from disclosure.

The issue involved herein was the subject of considerable detail by the Authority 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 the Farmers Home Administration Finance Office, St. Louis, Missouri v. FLRA, 836 F.2d 1139 (8th Cir. 1988). The Authority held therein that the names and home

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\*/ The Amended Answer avers that current addresses are not maintained by the Personnel Service or compositely available, but may be maintained by the respective services of assigned employees.

addresses must be furnished and that their release is not prohibited by law. It also concluded such data is necessary for unions to fulfill their representational duties under the Statute. The decision analyzed the exceptions to the Privacy Act's bar to disclosure of personal information pertinent to releasing employees' names and home addresses; exception (b)(2) concerning the Freedom of Information Act and exception (b)(3) relating to "routine use" of information. The Authority found both exceptions applied so as to authorize the release of the data under the Privacy Act.

Despite the decision by the D.C. Circuit in the Department of the Treasury, supra, the Authority has stated it will continue "to look to our earlier decision in Farmers Home Administration for controlling principles in this area." See U.S. Department of the Navy, Portsmouth Naval Shipyard, Portsmouth, New Hampshire, 37 FLRA 515 (1990). In the latter decision the Authority explained in detail why it refused to be bound by, or to find applicable, the Circuit Court's ruling in the Department of the Treasury case.

It is also urged by Respondent that the disclosure is not necessary since alternative means of communication are available. However, in Portsmouth Naval Shipyard, supra, the Authority concluded that whether disclosure is relevant and necessary to a union's function will not depend upon whether alternative means of communication are available.

Respondent also lays stress on the assertion that it makes no attempt to keep accurate or current addresses for its employees; that it cannot represent such addresses to be current or accurate. This factor, even if established, does not relieve the employer from its obligation to provide the data within its possession. See U.S. Department of the Interior, U.S. Bureau of Mines, Washington, D.C., 37 FLRA 799, 801 (1990).

Based on the foregoing, and the holdings of the Authority as set forth above, I conclude that Respondent's refusal and failure to provide the Union with the names and home addresses of unit employees violated section 7116(a)(1), (5) and (8) of the Statute. See also United States Department of the Navy and Philadelphia Naval Shipyard v. FLRA, 840 F.2d 1131 (3rd Cir. 1988), enforcing Philadelphia Naval Shipyard, 24 FLRA 37 (1986); U.S. Department of the Air Force, Scott Air Force Base, Illinois v. FLRA, 838 F.2d 229 (7th Cir. 1988), affirming Department of the Air Force, Scott Air Force Base, Illinois, 24 FLRA 226 (1986); Department of Health and Human Services, Social Security

Administration v. FLRA, 833 F.2d 1129 (4th Cir. 1987), affirming 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 Administration Field Operations, New York Region, 24 FLRA 583 (1986); Department of Health and Human Services, Social Security Administration, 24 FLRA 600 (1986).

Based on the foregoing, the General Counsel's Motion For Summary Judgment is granted. 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 the Department of Veterans Affairs Medical Center, Coatesville, Pennsylvania, shall:

1. Cease and desist from:

(a) Refusing to furnish, upon request of the National Association of Government Employees, Local R3-35, the exclusive representative of the bargaining unit employees, the names and home addresses of such employees.

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

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

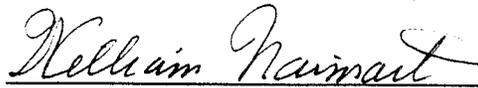
(a) Furnish the National Association of Government Employees, Local R3-35, the exclusive representative of the bargaining unit employees, the names and home addresses of such employees.

(b) Post at its facilities where bargaining unit employees represented by the National Association of Government Employees, Local R3-35, 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 Director, Department of Veterans Affairs Medical Center, Coatesville, Pennsylvania,

or a designee 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 of the Boston Regional Office, Federal Labor Relations Authority, 10 Causeway Street, Room 1017A, Boston, MA 02222-1046, in writing, within 30 days from the date of this Order, as to what steps have been taken to comply herewith.

Issued, Washington, DC, September 18, 1992



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WILLIAM NAIMARK  
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 Association of Government Employees, Local R3-35, the exclusive representative of the bargaining unit employees, the names and home addresses of such employees.

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 R3-35, the exclusive representative of the bargaining unit employees, the names and home addresses of such employees.

\_\_\_\_\_  
(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, Boston Regional Office, whose address is: 10 Causeway Street, Room 1017A, Boston, MA 02222-1046, and whose telephone number is: (617) 565-7280.