

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

.
U.S. DEPARTMENT OF THE NAVY, .
PORTSMOUTH NAVAL SHIPYARD, .
PORTSMOUTH, NEW HAMPSHIRE .

Respondent .

and .

Case No. 1-CA-90287

INTERNATIONAL FEDERATION OF .
PROFESSIONAL AND TECHNICAL .
ENGINEERS, LOCAL 4, AFL-CIO .

Charging Party .

.

Thomas F. Wood, Representative
For the Respondent

Carol Waller Pope, 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, issue a Complaint and Notice of Hearing alleging Respondent violated section 7116(a)(1), (5) and (8) of the Statute when Respondent failed and refused to furnish the Union with the names and home addresses of all bargaining unit employees which the Union requested. Respondent filed an Answer to the Complaint in which some of

the allegations in the Complaint were admitted and others denied.

Subsequently, counsel for the General Counsel filed a Motion for Summary Judgment and supporting documents with the Regional Director for Region I which was transferred to the Office of Administrative Law Judges for ruling pursuant to section 2423.22(b) of the Authority's Rules and Regulations. Thereafter Respondent filed an Opposition to the Motion for Summary Judgment. Based upon my review and evaluation of the entire record before me, I make the following:

Findings of Fact

1. The Charge in this proceeding was filed by the Union on May 18, 1987 and a copy thereof was served on the Respondent on May 23, 1987.

2. The Union is a labor organization within the meaning of 5 USC 7103(a)(4).

3. The Respondent is an agency within the meaning of 5 USC 7103(a)(3).

4. At all times material James H. Kautz occupied the position of Director, Industrial Relations of Respondent and has been and is now a supervisor and/or management official and an agent of the Respondent at its facility in Portsmouth, New Hampshire.

5. At all times material the Union has been recognized as the exclusive representative for the purposes of collective bargaining in the following appropriate unit:

All General Schedule professional and nonprofessional technical employees in the engineering sciences and associated fields in the Portsmouth Naval Shipyard but excluding supervisors, managerial executives, and Physical Science Technicians in the Radiological Monitoring Division of the Radiation Control Office.

6. By letter dated April 24, 1989 the Union, by its agent and representative W. D. Roberts, President, requested the Respondent to furnish the Union the names and home addresses for all bargaining unit employees in the unit described above in paragraph 5.

7. The data described above in paragraph 6:

(a) Is normally maintained by the Respondent in the regular course of its business;

(b) Is reasonably available and necessary for full and proper discussion, understanding and negotiation of subjects within the scope of collective bargaining;

(c) Does not constitute guidance, advice, counsel or training provided for management officials or supervisors, relating to collective bargaining; and

(d) Disclosure of the data described above in paragraph 6 is not prohibited by law.

8. Since on or about May 11, 1989 and continuing to date, the Respondent has failed to provide the Union with the data described above in paragraph 6.

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), contends Respondent violated section 7116(a)(1), (5) and (8) of the Statute when Respondent refused to supply the Union with the names and home addresses of all bargaining unit employees. Respondent denies in its Answer that the data sought by the Union is necessary for full and proper discussion, understanding and negotiation of subjects within the scope of collective bargaining and denies that providing the data requested is not prohibited by law, relying on application of certain provisions of the Freedom of Information Act, 5 USC 552 and the Privacy Act, 5 USC 552a.

In Farmers Home Administration Finance Office, supra, the Authority held inter alia, that the disclosure of the names and addresses of bargaining unit employees to the exclusive representative was not prohibited by the Privacy Act and such data was necessary under section 7114(b)(4)(B) of the Statute 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. In subsequent decisions the Authority followed Farmers Homes Administration in deciding numerous cases which involved substantially the same 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); and United States Department of Defense, Departments of the Army and Air Force, Army and Air Force Exchange Service, Dallas, Texas, 32 FLRA 968 (1988).

The facts presented herein and the arguments raised by Respondent are not significantly different from those considered and rejected by the Authority in Farmers Home Administration and cases which followed thereafter, supra. In view of the Authority's holdings in the above cases I conclude Respondent's defenses to its failure and refusal to provide the Union with the names and 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 home 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 the General Counsel's motion for summary judgment. Therefore, I recommend the Authority issue the following:

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 U.S. Department of the Navy, Portsmouth Naval Shipyard, Portsmouth, New Hampshire, shall:

1. Cease and desist from:

(a) Refusing to furnish, upon request of the International Federation of Professional and Technical Engineers, Local 4, AFL-CIO, 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 by the Federal Service Labor-Management Relations Statute.

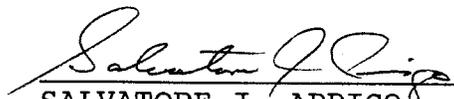
2. Take the following affirmative action in order to effectuate the purposes and policies of the Federal Service Labor-Management Relations Statute:

(a) Furnish the International Federation of Professional and Technical Engineers, Local 4, AFL-CIO, 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 where bargaining unit employees represented by the International Federation of Professional and Technical Engineers, Local 4, AFL-CIO, 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 Shipyard Commander or his 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, Region I, Federal Labor Relations Authority, 10 Causeway Street, Room 1017, 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, D.C., September 28, 1989


SALVATORE J. ARRIGO
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 International Federation of Professional and Technical Engineers, Local 4, AFL-CIO, 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 their rights assured by the Federal Service Labor-Management Relations Statute.

WE WILL furnish the International Federation of Professional and Technical Engineers, Local 4, AFL-CIO, 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 I, whose address is: 10 Causeway Street, Room 1017, Boston, MA 02222-1046, and whose telephone number is: (617) 565-7280.