

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 COMMUNICATIONS UNIT .
CUTLER, EAST MACHIAS, MAINE .

Respondent .

and .

Case No. 1-CA-90178

AMERICAN FEDERATION OF .
GOVERNMENT EMPLOYEES, .
AFL-CIO, LOCAL 2635 .

Charging Party .

.....

Muriel D. Williams
For the Respondent

Peter F. Dow, Esquire
For the General Counsel

Before: WILLIAM NAIMARK
Administrative 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 first amended charge filed by the American Federation of Government Employees, AFL-CIO, Local 2635 (herein called the Union), a Complaint and Notice of Hearing was issued on March 30, 1989 by the Regional Director, Region I, Federal Labor Relations Authority against Department of the Navy, Naval Communications Unit Cutler, East Machias, Maine (herein called the Respondent).

The Complaint alleged, in substance, that Respondent violated section 7116(a)(1), (5) and (8) of the Statute by refusing to provide the Union, upon request, with the names and home addresses of all firefighters represented by the Union as required by section 7114(b)(4) of the Statute.

Respondent's Answer, duly filed on April 19, 1989 and its Amended Answer duly file on April 28, 1989, admitted as to the Complaint: (a) the jurisdictional allegations therein; (b) that on January 23, 1989 the Union, as the exclusive representative, requested Respondent to provide it with the names and home addresses of all firefighters currently represented by the Union; (c) that since on or about January 30, 1989 Respondent has refused to provide the Union with the data so requested; (d) that the names and home addresses so requested are normally maintained by Respondent in the regular course of business; (e) that such data is reasonably available to Respondent; (f) that such data does not constitute guidance, advice, counsel or training provided for management officials or supervisors relating to collective bargaining.

The Answer denied that disclosure of the data is not prohibited by law.

Respondent's Amended Answer denied that the data requested is necessary for full and proper discussion, understanding and negotiation of subjects within the scope of collective bargaining. It also denied the commission of any unfair labor practices.

Under date of May 16, 1989, the General Counsel filed a Motion for Summary Judgment.

By order dated May 16, 1989 the Regional Director referred the Motion to the Chief Administrative Law Judge pursuant to section 2423.22(b) of the Authority's Rules and Regulations. The case was duly assigned to the undersigned for disposition.

Under date of June 5, 1989, Respondent submitted a memorandum in support of its opposition to the Motion For Summary Judgment.

Respondent contends that the release of the employee's home addresses is prohibited under certain provisions of the Freedom of Information Act and the Privacy Act. It also maintains that the requested data is not relevant or necessary for the Union to carry out its representational duties.

The same issues raised herein by Respondent were considered 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 Farmers Home Administration Finance Office,

St. Louis, Missouri v. FLRA, 836 F.2d 1139 (8th Cir. 1988). The Authority concluded that under section 7114(b)(4) of the Statute the exclusive representative is entitled to the names and home addresses of employees in the bargaining unit.

In the Authority's Decision and Order on Remand in Farmers Home, it determined that the release of names and home addresses of unit employees is not prohibited by law and is necessary for unions to fulfill their duties under the Statute. The Authority also analyzed the two exceptions to the Privacy Act's bar to disclosure of personal information pertinent to the release of employees' names and home addresses: exception (b)(2), concerning the Freedom of Information Act; and exception (b)(3), relating to "routine use" of information. It found that both exceptions applied so as to authorize release of the information under the Privacy Act.

The facts and circumstances herein which bear on a determination as to the obligations to furnish the data in the instant case do not differ in any material way from prior cases before the Authority in regard to the issues in this case. Moreover, the Authority has continued in subsequent cases to adhere to the Farmers Home decision and reject the contentions made by Respondent. See Department of the Navy and Naval Station, Norfolk, Virginia, 32 FLRA 317 (1988); U.S. Department of Agriculture and the Forest Service, 32 FLRA 12 (1988).

Accordingly, it is concluded that the Respondent's refusal to furnish the names and home addresses to the Union of the firefighters as requested was violative of section 7116(a)(1), (5) and (8) of the Statute. Further, the General Counsel's Motion For Summary Judgment is granted, and it is recommended that 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 the Department of the Navy, Naval Communications Unit Cutler, East Machias, Maine, shall:

1. Cease and desist from:

(a) Refusing to furnish, upon request of the American Federation of Government Employees, AFL-CIO,

Local 2635, the exclusive representative of certain of its employees, the names and home addresses of all employees requested in the bargaining unit represented by Local 2635 at the East Machias, Maine facility.

(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 American Federation of Government Employees, AFL-CIO, Local 2635, with the names and home addresses of all employees requested in the bargaining unit represented by Local 2635 at its East Machias, Maine facility.

(b) Post at the East Machias, Maine facility where bargaining unit employees represented by the American Federation of Government Employees, AFL-CIO, Local 2635 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 senior official, or his designee, of the Department of the Navy, Naval Communications Unit Cutler, East Machias, Maine, 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 II, Federal Labor Relations Authority, 26 Federal Plaza, Room 241, New York, NY 10278 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., August 30, 1989



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 American Federation of Government Employees, AFL-CIO, Local 2635, the exclusive representative of certain of our employees, the names and home addresses of all employees requested in the bargaining unit represented by Local 2635 at the East Machias, Maine facility.

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 American Federation of Government Employees, AFL-CIO, Local 2635, with the names and home addresses of all employees requested in the bargaining unit represented by Local 2635 at its East Machias, Maine facility.

(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.