

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

.
DEPARTMENT OF THE NAVY,
NAVY EXCHANGE, NAVAL
TRAINING STATION AND
NAVAL HOSPITAL,
GREAT LAKES, ILLINOIS

Respondent

and

SERVICE EMPLOYEES
INTERNATIONAL UNION,
LOCAL 11, AFL-CIO/CLC

Charging Party

.

Case No. 5-CA-80326

Mr. Thomas F. Wood
For the Respondent

Sharon A. Bauer, Esquire
For the General Counsel, FLRA

Before: JOHN H. FENTON
Chief Administrative Law Judge

DECISION

Statement of the Case

This decision concerns an unfair labor practice complaint issued by the Regional Director, Region V, Federal Labor Relations Authority, Chicago, Illinois, against the Department of the Navy, Navy Exchange, Naval Training Station and Naval Hospital, Great Lakes, Illinois (Respondent), based on a charge filed by the Service Employees International Union, Local 11, AFL-CIO/CLC, (Charging Party or Union). The complaint alleged, in substance, that Respondent violated sections 7116(a)(1), (5) and (8) of the Federal Service Labor-Management Relations Statute, 5 U.S.C. § 7101 et seq. (the Statute), by refusing to furnish the Union upon request with the home addresses of

all bargaining unit employees represented by the Union pursuant to section 7114(b)(4) of the Statute.*/

Respondent's answer, admitted the jurisdictional allegations as to the Respondent, the Union, and the charge; that, on or about March 9, 1988, the Union, the exclusive representative of a unit of employees of the Respondent, requested the home addresses of employees in the Union bargaining unit; and that, in or about March, 1988, the exact date being unknown to the Regional Director, an agent of the Respondent denied the Union's request for the information. Respondent's answer, also admitted that the home addresses are normally maintained in the regular course of business; are reasonably available; and do not constitute guidance, advice, counsel or training provided for management officials or supervisors relating to collective bargaining. Therefore, such matters are found to be established.

*/ Section 7114(b)(4) provides:

"(b) the duty of an agency and an exclusive representative to negotiate in good faith under subsection (a) of this section shall include the obligation . . .

. . .

"(4) in the case of an agency, to furnish to the exclusive representative, upon request and, to the extent not prohibited by law, data --

"(A) which is normally maintained by the agency in the regular course of business; (and)

"(B) which is reasonably available and necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining . . ."

"(C) which does not constitute guidance, advice, counsel, or training provided for management officials or supervisors, relating to collective bargaining[.]

Respondent's answer, denied that the information requested is necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining. Respondent also denied any violation of the Statute.

On or about August 17, 1988, Counsel for the General Counsel moved for summary judgment and submitted a supporting brief. The Regional Director transferred the motion to the undersigned Chief Administrative Law Judge, pursuant to section 2423.22(b)(1) of the Regulations. Respondent served its opposition to the Motion on or about August 31, 1988.

Positions of the Parties

Respondent request a hearing, contending that there are unresolved material facts in dispute. Namely that the disclosure of the names and home addresses is prohibited by law within the meaning of 5 U.S.C. 7114(b)(4). Respondent also contend that the basis for the Union's request does not meet the requirement under the Statute that the information must be "necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining." Respondent assert that the Authority's decision on remand in Farmers Home Administration Finance Office, St. Louis, Missouri, 23 FLRA No. 101 (1986) (FHAFO), petition for review filed sub nom. U.S. Department of Agriculture and the Farmers Home Administration Finance Office, St. Louis, Missouri v. FLRA, No. 86-2779 (8th Cir. Dec. 23, 1986) is in error as the Authority failed to give greater consideration to the potential abuses inherent in the discloser of employees' home addresses.

The General Counsel contends that in light of the Authority's decision in FHAFO there are no disputed issues of material fact, and it is entitled to summary judgment as the Respondent's failure and refusal to provide the employees' home addresses to the Union in this case constitutes a refusal to comply with section 7114(b)(4) and a violation of section 7116(a)(1), (5) and (8) of the Statute.

Discussion and Conclusions

In FHAFO the Authority held that "the statutory requirement concerning sufficiency of a request under section 7114(b)(4) is satisfied for requests such as that involved here [for names and home addresses] when a general written request for the information is made. A precise

explication of the reasons for the request involved here is not necessary." The Authority also emphasized that names and home addresses of bargaining unit employees should be provided whether or not alternative means of communication are available. The Authority stated, "We will not review the adequacy of alternative methods of communication on a case-by-case bases." In view of the Authority's FHAFO decision it is concluded that facts as to the purpose of the request and whether or not alternative means of communication are available between unit employees and their exclusive representative are not material.

There being no dispute as to any material fact, it is concluded that the General Counsel is entitled to summary judgment as a matter of law under the Authority's decision in FHAFO. There the Authority gave full consideration to the many issues raised by requiring disclosure of names and home addresses of federal employees. The Authority analyzed the interplay of the Statute, the Privacy Act, and the Freedom of Information Act, and concluded that, "the release of names and home addresses to the Union is not prohibited by law, is necessary for the Union to fulfill its duties under the Statute, and meets the other requirements of section 7114(b)(4)."

Inasmuch as the Union's request meets all of the requirements established by section 7114(b)(4), Respondent violated section 7116(a)(1), (5), and (8) of the Statute.

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 Authority's Rules and Regulations and section 7118 of the Federal Service Labor-Management Relations Statute, the Department of the Navy, Navy Exchange, Naval Training Station and Naval Hospital, Great Lakes, Illinois shall:

1. Cease and desist from:

(a) Refusing to furnish, upon request of the Service Employees International Union, Local 11, AFL-CIO/CLC, the exclusive representative of a bargaining unit 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 the rights assured them by the Federal Service Labor-Management Relations Statute.

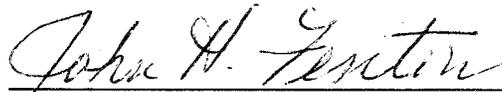
2. Take the following affirmative action in order to effectuate the purposes and policies of the Statute:

(a) Furnish the Service Employees International Union, Local 11, AFL-CIO/CLC, the exclusive representative of a bargaining unit of its employees, the names and home addresses of all employees in the bargaining unit it represents.

(b) Post at its facilities where said bargaining unit employees represented by the Service Employees International Union, Local 11, AFL-CIO/CLC, 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, Naval Exchange, Naval Training Station and Naval Hospital, Great Lakes, Illinois, 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 ensure 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 V, Federal Labor Relations Authority, 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 30, 1988



JOHN H. FENTON
Chief Administrative Law Judge

APPENDIX

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 refuse to furnish, upon request of the Service Employees International Union, Local 11, AFL-CIO/CLC, the exclusive representative of a bargaining unit 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 our employees in the exercise of the rights assured them by the Federal Service Labor-Management Relations Statute.

WE WILL furnish the Service Employees International Union, Local 11, AFL-CIO/CLC, the exclusive representative of a bargaining unit of our employees, the names and home addresses of all employees in the bargaining unit it represents.

(Agency or Activity)

Dated: _____ By: _____
(Signature)

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 V, whose address is: 175 West Jackson Boulevard, Suite 1359-A, Chicago, IL 60604, and whose telephone number is: (312) 353-6306.