

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

.
REDWOOD NATIONAL PARK .
CRESCENT CITY, CALIFORNIA .
Respondent .
and .
NATIONAL FEDERATION OF FEDERAL .
EMPLOYEES, LOCAL 2091 .
Charging Party .
.

Case No. 9-CA-10505

Gerald J. Rachelson, Esq.
For the Respondent
Gary J. Lieberman, 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 the San Francisco Regional Office, issued 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 employees' exclusive collective bargaining representative, herein the Union, with the home addresses of all bargaining unit

employees at its facility. Respondent filed an Answer to Complaint in which some allegations of the Complaint were admitted and others denied and Respondent moved to dismiss the Complaint.

Subsequently, counsel for the General Counsel filed a Motion for Summary Judgment and supporting documents with the Regional Director for the San Francisco Regional Office and the matter 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 its own Motion for Summary Judgment with a supporting brief and moved to have the case held in abeyance.^{1/} Based upon my review and evaluation of the entire record before me, I make the following.

Findings of Fact

1. At all times material the Union has been, and is now a labor organization under 5 U.S.C. § 7103(a)(4).
2. At all times material Respondent has been, and is now, an agency under 5 U.S.C. § 7103(a)(3).

^{1/} After the matter was transferred by the San Francisco Regional Director, the Office of Administrative Law Judges, by Order, set a date for filing of any additional pleadings or briefs. Counsel for Respondent filed his motions and brief after the date set in the Order. Thereafter, counsel for the General Counsel filed an original opposition and a second opposition to receipt of Respondent's pleadings and brief and, in the alternative, counsel for the General Counsel requests an opportunity to address those substantive arguments raised by Respondent.

A review of the pleadings in this case, beginning with the Complaint, clearly establishes that Respondent has had the same counsel of record throughout the litigation of this matter. However, the service sheet attached to the Order setting the date for filing additional pleadings or briefs, including the copy of the Order sent to counsel for the General Counsel, reveals counsel for Respondent was inadvertantly never served with a copy of the Order. In these circumstances Respondent's brief has been received and duly considered and counsel for the General Counsel's oppositions and request are denied.

3. The Union is the certified exclusive representative of a unit of Respondent's employees appropriate for collective bargaining at the Redwood National Park, Crescent City, California.

4. At all times material William H. Ehorn, has occupied the position of Superintendent, and has been, and is now, a supervisor or management official for Respondent under 5 U.S.C. § 7103(a)(10) and/or (11).

5. By letter dated June 5, 1991, the Union requested that Respondent furnish to the Union the home mailing addresses of bargaining unit employees described in paragraph 3 above.

6. The information requested in paragraph 5:

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

(b) is reasonably available;

(c) is necessary for full and proper discussion, understanding and negotiation of subjects within the scope of collective bargaining;

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

(e) is not prohibited by law from disclosure to the Union.

7. Since June 10, 1991, and continuing to date, Respondent, through Ehorn, refused, and continues to refuse, to provide the Union with the information it requested, as described in paragraph 5 above.

The General Counsel contends that the Authority's decisions in Farmers Home Administration Finance Office, St. Louis, Missouri, 23 FLRA 788 (1986), and U.S. Department of the Navy, Portsmouth Naval Shipyard, Portsmouth, New Hampshire, 37 FLRA 515 (1990) (Portsmouth Naval Shipyard), enforcement denied sub nom. FLRA v. U.S. Department of the Navy, Portsmouth Naval Shipyard, Portsmouth, New Hampshire, 941 F.2d 49 (1st Cir. 1991), are dispositive of the issues in this case. The General Counsel asserts that, consistent with these decisions, the Respondent's admitted failure to furnish the Union with the

requested information violates section 7116(a)(1), (5) and (8) of the Statute.

Respondent denies that the information sought is necessary for full and proper discussion, understanding, and negotiations of subjects within the scope of collective bargaining and denies that disclosure of the data is not prohibited by law. Respondent essentially argues that Portsmouth Naval Shipyard was wrongly decided by the Authority.^{2/}

Discussion and Conclusions

The arguments raised by Respondent are not significantly different from those considered and rejected by the Authority in Portsmouth Naval Shipyard and cases which followed thereafter and the Authority has indicated it would adhere to its decision in Portsmouth Naval Shipyard. See U.S. Department of the Navy, Supervisors of Shipbuilding, Conversion and Repair, Portsmouth, Virginia, 43 FLRA 1003 (1992); U.S. Department of State, Bureau of Consular Affairs, Passport Services, 43 FLRA 369 (1991); and U.S. Department of the Navy, Naval Public Works Center, San Diego, California, 42 FLRA 860 (1991). Indeed, similar decisions of the Authority were enforced in FLRA v. U.S. Department of the Navy, Navy Resale & Services Support Office, Field Support Office, Auburn, Washington, et al., Nos. 90-70511 & 90-70535, et al., (9th Cir. Mar. 18, 1992) and FLRA v. Department of Commerce, National Oceanographic and Atmospheric Administration, National Ocean Service, Nos. 90-1852 & 90-1859, (4th Cir. Jan. 1992).

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 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 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

^{2/} In these circumstances Respondent's Motion to Dismiss, Motion for Summary Judgment and Motion to Hold Case In Abeyance are denied.

Counsel's Motion for Summary Judgment.^{3/} 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 Redwood National Park, Crescent City, California, shall:

1. Cease and desist from:

(a) Refusing to furnish, upon request of the National Federation of Federal Employees, Local 2091, the exclusive representative of certain of its employees, the 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) Upon request furnish the National Federation of Federal Employees, Local 2091, the exclusive representative of certain of its employees, the home addresses of all employees in the bargaining unit it represents.

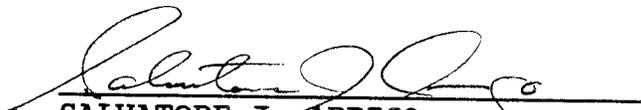
(b) Post at its facilities where bargaining unit employees represented by the National Federation of Federal Employees, Local 2091, are located, copies of the attached Notice on forms to be furnished by the Federal Labor Relations Authority. Upon receipt of such forms, they shall be signed by the Superintendent of the Redwood National Park and shall be posted and maintained for 60 consecutive days thereafter, in conspicuous places, including all bulletin

^{3/} In its Motion to Hold Case In Abeyance Respondent suggests that it is not an effective utilization of resources to continue to process cases involving a names and address issue since the matter is presently being considered by various Courts of Appeals and, in all probability, will ultimately reach the Supreme Court for resolution.

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 San Francisco Regional Office, 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, DC, March 31, 1992


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 National Federation of Federal Employees, Local 2091, the exclusive representative of certain of our employees, the home addresses of employees in the bargaining unit it represents as requested.

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 Federation of Federal Employees, Local 2091, the exclusive representative of certain of our employees, the home addresses of employees in the bargaining unit it represents as requested.

(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, Denver Regional Office, whose address is: 1244 Speer Boulevard, Suite 100, Denver, CO 80204, and whose telephone number is: (303) 844-5224.