

Office of Administrative Law Judges

WASHINGTON, D.C.

U.S. CUSTOMS SERVICE ST. LOUIS, MISSOURI

Respondent

and

Case No. DE-CA-70590

RONALD M. SIMONS

Charging Party/Individual

Susan Flood, Esquire Counsel for the Respondent
Hazel E. Hanley, Esquire Counsel for the General Counsel
Before: GARVIN LEE OLIVER Administrative Law Judge

DECISION

Statement of the Case

The unfair labor practice complaint, issued September 30, 1997, and the Respondent's answer, dated October 24, 1997, reflect the following uncontested facts:

Ronald M. Simons, an employee of the Respondent and a member of a bargaining unit represented by the National Treasury Employees Union (NTEU), filed a grievance which was resolved by a dispute resolution panel on May 9, 1997, pursuant to Article 31 of the NTEU - Respondent collective bargaining agreement.

On May 12, 1997, Simons wrote a memorandum to T.A. Galantowicz, the Respondent's Port Director in St. Louis, Missouri, protesting the resolution of his grievance.

On May 13, 1997, Galantowicz conducted a meeting with Simons on the subject of Simons' memorandum, and told Simons words to the effect that his memorandum about the grievance resolution was impertinent, insolent, contemptuous, and unprofessional. At the conclusion of the meeting, Galantowicz gave Simons a copy of Simons' May 12 memorandum and a buck slip dated May 12 signed by Galantowicz stating words to the effect that Simons' memorandum about the grievance resolution was impertinent and insolent.

After the May 13, 1997 meeting, Galantowicz issued a buck slip to Simons dated May 12, 1997 attached to which was a two page handwritten "Note to File" dated May 13, 1997, stating words to the effect that Simons' reaction to the grievance resolution was impertinent, insolent, contemptuous, and unprofessional. Simons received the buck slip and "Note to File" memorandum through internal mail distribution on or about May 13, 1997.

The complaint alleges, in effect, that the Respondent, through Galantowicz, conducted the May 13, 1997, meeting and issued the buck slip and "Note to File" memorandum because Simons engaged in protected activity by filing a grievance and protesting the resolution of that grievance. The complaint alleges that the Respondent's conduct violated section 7116(a)(1) and (2) of the Federal Service Labor - Management Relations Statute (the Statute), 5 U.S.C. [∞] 7116(a)(1) and (2). In the alternative, the complaint alleges that the

conduct of the Respondent, in conducting the May 13, 1997 meeting and issuing the buck slip and "Note to File" memorandum, independently violated section 7116(a)(1) of the Statute.

The Respondent's answer admitted the factual allegations, as noted, but denied that the Respondent took the actions because Simons was engaged in protected activity or that it had violated the Statute.

Motion for Summary Judgment