



FEDERAL LABOR RELATIONS AUTHORITY
Office of Administrative Law Judges
WASHINGTON, D.C.

OALJ 14-03

DEPARTMENT OF VETERANS AFFAIRS
VETERANS AFFAIRS MEDICAL CENTER
AMARILLO, TEXAS

RESPONDENT

Case No. DA-CA-13-0192

AND

NATIONAL FEDERATION OF FEDERAL
EMPLOYEES, LOCAL 1138

CHARGING PARTY

Carmen Byrd
For the General Counsel

Jeffrey T. Reeder
For the Respondent

Debra Clayton
For the Union

Before: SUSAN E. JELEN
Administrative Law Judge

DECISION AND ORDER REMANDING CASE

On January 22, 2013, the National Federation of Federal Employees, Local 1138 (Union) filed an unfair labor practice charge (ULP) against the Department of Veterans Affairs, Veterans Affairs Medical Center, Amarillo, Texas (Respondent/VA). On July 16, 2013, the Dallas Regional Director issued a Complaint and Notice of Hearing, alleging that the Respondent violated section 7116(a)(1) and (5) of the Federal Service Labor-Management Relations Statute by unilaterally implementing mandatory overtime for Title 38 registered nurses at the Respondent without bargaining with the Union. On August 14, 2013, the Respondent filed its Answer to the complaint.

On January 10, 2014, the parties filed a Joint Stipulation of Undisputed Facts with the Office of Administrative Law Judges, which set the due date for briefs as February 14, 2014. On January 23, 2014, the VA Secretary issued a Title 38 Decision Paper, in which he

determined that the ULP charge at issue in this matter was a matter or question arising out of professional conduct or competence within the meaning of 38 U.S.C. § 7422(b), and was excluded from collective bargaining.

On February 6, 2014, Counsel for the General Counsel filed an unopposed Motion to Remand Case to the Dallas Region, stating that pursuant to the Title 38 Decision Paper, the Regional Director has reconsidered his determination to issue a complaint in this case and has now determined that dismissal is warranted. Pursuant to § 2423.21 of the Rules and Regulations of the Federal Labor Relations Authority, Counsel for the General Counsel requests that this case be remanded to the Dallas Regional Office for appropriate action. I conclude that the withdrawal of the complaint is appropriate in light of the Title 38 Decision Paper issued on January 23, 2014, and that remanding the case to the Regional Director is appropriate.

ORDER

The Motion to Remand the Case to the Dallas Region is GRANTED.

The case is hereby Remanded to the Regional Director for further action as he deems appropriate to effectuate the purposes and policies of the Statute.

Issued, Washington, D.C., February 11, 2014



SUSAN E. JELEN
Administrative Law Judge