

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

.....
DEPARTMENT OF VETERANS AFFAIRS, .
MEDICAL CENTER, .
CHILLICOTHE, OHIO .
Respondent .
and .
AMERICAN FEDERATION OF .
GOVERNMENT EMPLOYEES, AFL-CIO .
Charging Party .
.....

Case No. 5-CA-10635

George J. Bauer, Esq.
For Respondent

Susanne S. Klein, Esq.
For General Counsel of the FLRA

Before: SAMUEL A. CHAITOVITZ
Administrative Law Judge

DECISION

Statement of the Case

The unfair labor practice complaint in this case alleges that Department of Veterans Affairs, Veterans Affairs Medical Center, Chillicothe, Ohio (Respondent and VAMC) violated section 7116(a)(1), (5), and (8) of the Federal Service Labor-Management Statute, 5 U.S.C. § 7101 et seq. (Statute) by refusing to furnish American Federation of Government Employees, AFL-CIO (AFGE), the exclusive representative of certain VA employees, the names and home addresses of employees in the bargaining unit. VA filed an answer denying it had violated the Statute.

On or about December 6, 1991, General Counsel of the Federal Labor Relations Authority (FLRA) filed a Motion for Summary Judgment which was transferred by the Regional Director of the FLRA's Chicago Region to the Chief

Administrative Law Judge of the FLRA, pursuant to section 2423.22(b)(1) of the FLRA's Rules and Regulations, 5 C.F.R. Chapter XIV, § 2423 et seq.

The Chief Administrative Law Judge of the FLRA issued an Order granting the parties until December 31, 1991, to file any additional pleadings or briefs.

VAMC filed a cross Motion for Summary Judgment. VAMC did not take issue with any material facts, except to raise an issue of alternative means of communications, but requested that the complaint be dismissed as a matter of law.

This case was assigned to the undersigned for disposition pursuant to section 2423.19(k) and section 2423.22(b) of the FLRA's Rules and Regulations.

Based upon the entire record herein, and because there are no genuine issues of material fact, summary judgment is the appropriate procedure for disposition, I make the following findings of fact, conclusions of law, and recommended order:

Findings of Fact

At all material times AFGE has been the certified exclusive representative for a nationwide unit of employees of the Veterans Administration (VA), including employees of VAMC. AFGE, Local 1631, is an agent of AFGE for representing unit employees at VAMC.

On June 24, 1991, AFGE Local 1631, requested VAMC to furnish the names and home addresses of bargaining unit employees located at VAMC.

The requested names and homes addresses are reasonably available and do not constitute guidance, advice, counsel, or training provided for management officials or supervisors, relating to collective bargaining.

On June 27, 1991, VAMC denied the request for the names and home addresses of the unit employees located at VAMC, and since this date VAMC has refused to supply this requested information to AFGE Local 1631.

Discussion and Conclusions of Law

General Counsel of the FLRA contends that VAMC did not comply with its obligations under section 7114(b)(4) of the

Statute when it refused to provide AFGE Local 1631 with the names and home addresses of unit employees located at VAMC and, therefore, VAMC violated section 7116(a)(1), (5), and (8) of the Statute.

VAMC argues that, under section 7114(b)(4) of the Statute, AFGE is not entitled to the requested information, the names and home addresses of unit employees at VAMC, because this information is not necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of bargaining; that alternative means of communication exist; that the Privacy Act, 5 U.S.C. § 552a, prevents the disclosure of the information; and that this matter has been disposed of by the U.S. Courts of Appeal. See FLRA v. Department of the Treasury, Financial Management Service, 884 F.2d 1446 (D.C. Cir. 1989), cert. denied, 110 S. Ct. 864 (1990) (Dep't of the Treasury) and FLRA v. U.S. Department of Navy, Naval Communications Unit Cutler, East Machias, ME, 941 Fed 2d 49 (1st Cir. 1991).

The FLRA has rejected all of these arguments and has held, in spite of the cases cited above, that, under section 7114(b)(4) of the Statute, an agency must, upon request, provide a labor organization with the names and home addresses of employees in the collective bargaining unit represented by the union. See 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) and U.S. Department of the Navy, Supervisor of Shipbuilding, Conversion and Repair, Portsmouth, Virginia, 43 FLRA No. 83 (1992) (Dep't of the Navy). Further such an FLRA order was enforced in FLRA v. Department of Commerce, National Oceanographic and Atmospheric Association, National Ocean Service, No. 90-1852 (4th Cir. 1992).

In Dep't of the Navy, supra, the FLRA held a union is entitled to the requested information without any determination being necessary as to whether alternative means of communication are available to the union.

Accordingly, based on the FLRA's decisions in Portsmouth Naval Shipyard, supra, and Dep't of the Navy, supra, I conclude that VAMC violated section 7116(a)(1), (5) and (8) of the Statute by failing to furnish AFGE with the requested names and home addresses of unit employees represented by AFGE.

Based on the foregoing findings and conclusions the Motion for Summary Judgment filed by the General Counsel of the FLRA is Granted and the Cross-Motion of VAMC is Denied, and 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, Department of Veterans affairs, Medical Center, Chillicothe, Ohio, shall:

1. Cease and desist from:

(a) Refusing to furnish, upon request of the American Federation of Government Employees, AFL-CIO, Local 1631, the exclusive representative of certain employees of the Department of Veterans Affairs, Medical Center, Chillicothe, Ohio, the requested names and home addresses of employees in the bargaining unit represented by the union.

(b) In any like or related manner, interfering with, restraining, or coercing its employees in the exercise of their rights assured by the Statute.


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

(a) Furnish the American Federation of Government Employees, AFL-CIO, Local 1631, the exclusive representative of certain employees of the Department of Veterans Affairs, Medical Center, Chillicothe, Ohio, the requested names and home addresses of employees in the bargaining unit represented by the union.

(b) Post at its facilities where bargaining unit employees represented by the American Federation of Government Employees, AFL-CIO, Local 1631, 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 Medical Center Director and shall be posted in conspicuous places, including all bulletin boards and other places where notices to employees are customarily posted, and shall be maintained for 60 consecutive days thereafter. 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, Chicago 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, D.C., February 11, 1992.



SAMUEL A. CHAITOVITZ
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 1631, the exclusive representative of certain employees of the Department of Veterans Affairs, Medical Center, Chillicothe, Ohio, the requested names and home addresses of employees in the bargaining unit represented by the union.

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 1631, the exclusive representative of certain employees of the Department of Veterans Affairs, Medical Center, Chillicothe, Ohio, the requested names and home addresses of employees in the bargaining unit represented by the union.

(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, Chicago Regional Office, whose address is: 175 W. Jackson Blvd., Suite 1359-A, Chicago, IL 60604, and whose telephone number is: (312) 353-6306.