

September 27, 1995

VIA UPS OVERNIGHT

Clifford T. Chentnik
N3066 Apricot Road
Lake Geneva, WI 53147

Roadway Express, Inc.
985 S. Main Street
Janesville, WI 53546

Penni Secore, President
Teamsters Local Union 579
2214 Center Avenue
Janesville, WI 53546

Re: Election Office Case No. P-119-LU579-NCE

Gentlepersons:

A pre-election protest was filed pursuant to the ***Rules for the 1995-1996 IBT International Union Delegate and Officer Election ("Rules")*** by Clifford Chentnik, a member of Local 579 employed by Roadway Express, Inc. ("Roadway") at its Janesville, Wisconsin terminal, who alleges that on August 2, 1995, Roadway retaliated against him by denying him permission to attend an August 8, 1995 hearing concerning the closure of the Janesville terminal. The protester contends that Roadway has retaliated against him because he has filed a pre-election protest, is a candidate for delegate, and is an active supporter of the incumbent General President Ron Carey.

Roadway declined to admit or deny the protester's allegations, but asserts that the protest is moot because subsequent to August 2, 1995, Mr. Chentnik was advised by his employer that he was permitted to attend the hearing and he, in fact, did so. They further assert there has been and will be no retaliation against Mr. Chentnik.

Regional Coordinator Judith E. Kuhn investigated the protest.

In mid-July 1995, Roadway proposed to consolidate several of its terminals, closing the Janesville terminal and transferring the Janesville drivers to Roadway's Rockford, Illinois terminal.¹

Under Article 8, Section 6 of the National Master Freight Agreement, to which Roadway is a party, any transfer, change or modification of an employer's terminals must be reviewed and approved by the union and the employer's Change of Operations Committee.

The protester states that on August 2, 1995, Roadway Terminal Manager Spencer Schroeder stated that Mr. Chentnik would not be permitted to attend the Change of Operations hearing scheduled for August 8, and that if he did attend, he would be discharged. According to the protester, Mr. Schroeder stated that only one person from the Local Union was permitted to be present at the hearing, and that David Barker, the Local Union 579 shop steward, would be present for the Local Union. Mr. Chentnik states that Mr. Schroeder informed him that Local Union 579 Business Agent Penni Secore had approved the decision to send Mr. Barker, not Mr. Chentnik, to the Change of Operations Committee meeting.

Two days later, Mr. Barker told a meeting of Local Union members that he was not sure that he could attend the August 8 meeting. At the urging of the Local Union members, Ms. Secore then designated Mr. Chentnik to attend the Change of Operations meeting. Ms. Secore thereafter advised Terminal Manager Schroeder that Mr. Chentnik would attend the meeting on behalf of Local Union 579. Roadway agreed to allow Mr. Chentnik to attend the meeting; the protester attended the meeting on August 8, 1995 without adverse action from his employer.

The *Rules* prohibit retaliation due to the exercising of political expression as protected by the *Rules*. See, Article VIII, Sections 11(a), (f); Chentnik, supra. Here, there is no evidence that Roadway initially refused Mr. Chentnik permission to attend the Change of Operations Committee meeting. Rather, the evidence indicates that Roadway believed that only one representative from Local Union 579 was permitted to attend the hearing, and the union had designated someone other than the protester to attend the hearing. Thereafter, Mr. Chentnik attended the meeting without any adverse action by him employer.

¹In Chentnik, P-112-LU579-NCE (August 22, 1995), affm'd, 95-Elec.App.-13 (KC) (September 20, 1995), the Election Officer denied a protest in which Mr. Chentnik alleged that Roadway, Local Union 579, and Local Union 325 colluded to close the Roadway terminal in order to prevent the protester's candidacy for delegate.

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Accordingly, the protest is DENIED.

Any interested party not satisfied with this determination may request a hearing before the Election Appeals Master within one day of receipt of this letter. The parties are reminded that, absent extraordinary circumstances, no party may rely upon evidence that was not

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presented to the Office of the Election Officer in any such appeal. Requests for a hearing shall be made in writing and shall be served on:

Kenneth Conboy, Esq.
Mudge, Rose, Guthrie, Alexander & Ferdon
180 Maiden Lane, 36th Floor
New York, NY 10038
Fax (212) 248-2655

Copies of the request for hearing must be served on the parties listed above as well as upon the Election Officer, 400 North Capitol Street, Suite 855, Washington, D.C. 20001, Facsimile (202) 624-3525. A copy of the protest must accompany the request for a hearing.

Sincerely,

Barbara Zack Quindel
Election Officer

cc: Kenneth Conboy, Election Appeals Master
Judith Kuhn, Regional Coordinator