

OFFICE OF ADMINISTRATIVE LAW JUDGES

WASHINGTON, D.C. 20424-0001

DEPARTMENT OF THE AIR FORCE, AIR FORCE MATERIEL COMMAND,
WRIGHT-PATTERSON AIR FORCE BASE, OHIO

Respondent

and

Case No.
CH-CA-30425

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, COUNCIL 214,
AFL-CIO

Charging Party

Lt. Col. Timothy D. Wilson For the Respondent Susanne S. Matlin, Esq. For the General Counsel Joseph
Nickerson For the Charging Party

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. § 7101, et seq. (herein the Statute).

Upon an unfair labor practice charge having been filed by the captioned Charging Party (herein the Union) against the captioned Respondent, the General Counsel of the Federal Labor Relations Authority (herein the Authority), by the Regional Director for the Chicago Region, issued a Complaint and Notice of Hearing alleging Respondent violated the Statute by establishing reduction-in-force (RIF) hotlines without affording the Union with notice and an opportunity to negotiate over the substance and impact and implementation concerning the change in conditions of employment.

A hearing on the Complaint was conducted in Dayton, Ohio, at which all parties were afforded full opportunity to adduce evidence, call, examine and cross-examine witnesses and argue orally. Briefs were filed by Respondent and the General Counsel and have been carefully considered.

Upon the entire record in this case, my observation of the witnesses and their demeanor and from my evaluation of the evidence, I make the following:

Findings of Fact

At all times material the American Federation of Government Employees, AFL-CIO (herein AFGE) has been the exclusive collective bargaining representative of various of Respondent's employees and Council 214 has been the agent of AFGE for the purpose of representing those employees. While the Air Force Materiel Command (AFMC) has its headquarters at Wright-Patterson Air Force Base, the AFMC is also located in numerous other facilities in the United States. The collective bargaining unit consists of approximately 73,000 employees. Also located at Wright-Patterson AFB are other organizations, including the Aeronautical Systems Center (ASC) and the 645th Air Base Wing (ABW).

In late December 1992 or early January 1993, AFGE Council 214 was informed by management of a potential RIF throughout AFMC. AFGE Council 214 was offered an opportunity to negotiate about the RIF and was briefed on the potential impact. Management estimated the RIF could affect approximately 8,000 employees throughout the AFMC and over 1,000 at Wright-Patterson including 125 at AFMC headquarters, 841 at ASC and 134 at other organizations.

At a commander's meeting with the workforce at Wright-Patterson AFB in January 1993, General Ronald Yates, Commander, AFMC, announced that he was establishing a RIF hotline. In the January 15, 1993 issue of the Skywrighter, the Wright-Patterson AFB official newspaper, the Skywrighter listed three Wright-Patterson telephone extensions for employees to call to get answers to questions about the RIF. One extension was referred to as the AFMC Hotline, another as the ASC RIF Hotline, and the third as the ABW RIF Hotline. AFMC never gave AFGE Council 214 prior notice of or the opportunity to negotiate concerning the establishment or operation of the command-wide RIF hotline. The ASC and ABW "hotline" existed for a substantial period of time prior to January 1993 and continues as a means for employees to obtain responses from management of those organizations to a variety of employment related questions. As reported in the Skywrighter article, General Yates stated: "We will go the extra mile to keep our people informed about the process, its status and how it affects them. For example, we have established an information line - Ext. 70268 - that our people may call to ask questions about the process, and we will respond with timely answers." Information concerning the establishment of the command-wide Hotline was distributed to the other bases throughout AFMC.

The AFMC Hotline was in operation between mid-January 1993 and early April 1993, and was available to all employees in the AFMC. The telephone inquiries received from various locations were tape recorded and were generally directed to a member of Respondent's Employee Relations or Affirmative Employment Office and a written answer was given to the employee by a staff member of Respondent's Personnel Office. The written response identified the question received by the "AFMC Personnel Hot Line". While the vast majority of the 219 inquiries received dealt with the anticipated RIF and its effects, some questions concerned general employment matters. Some of the questions and answers were published in subsequent editions of the Skywrighter.

Prior to the establishment of the AFMC RIF Hotline, no specifically designated telephone channel of employee inquiry existed within the AFMC. However, employees seeking such information could call or visit Respondent's Personnel Office.

Additional Findings, Discussion and Conclusions

The General Counsel alleges Respondent violated section 7116(a)(1) and (5) of the Statute when it established the AFMC-wide RIF Hotline for the purpose of answering questions from employees about RIF procedures, details and impact without affording the Union notice and an opportunity to negotiate over the substance, impact and implementation of this change in conditions of employment. Respondent contends the use of other hotlines in existence ". . . for an extended period of time throughout AFMC without objection . . ." has matured into a past practice and the addition of one hotline amounts to an "insignificant change" in conditions of employment with a corresponding insignificant impact and accordingly did not raise a bargaining requirement.

The record reveals that the command-wide AFMC Hotline was established and effectuated by Respondent in mid-January 1993 without giving the Union prior notice and an opportunity to negotiate on the substance, impact and implementation of this change in conditions of employment. Prior to its implementation, no AFMC-Hotline existed at Wright-Patterson AFB nor did an AFMC-wide Hotline exist. The record does establish that for a substantial period of time at Wright-Patterson AFB, hotlines existed for employee communication with the ASC and the ABW, entities presumably within the AFMC organization. However, the record does not support a finding that previously hotlines existed "throughout AFMC."⁽¹⁾

The establishment of an information hotline concerns a condition of employment. See Antilles Consolidated Education Association and Antilles Consolidated School System, 22 FLRA 235 (1986).⁽²⁾ I further conclude the matter of establishing the new AFMC command-wide Hotline was fully negotiable as to substance, impact, and implementation. Cf. American Federation of Government Employees, Local 3407 and U.S. Department of Defense, Defense Mapping Agency, Hydrographic-Topographic, Washington, D.C., 39 FLRA 557, 561-562 (1991). Respondent's principle defense is that the change was insignificant and the impact of the change on employees was similarly insignificant. However, once it is determined that the decision to make a change in a condition of employment is negotiable, as herein, the extent of the impact of the change on unit employees is not relevant. See Marine Corp Logistics Base, Barstow, California, 33 FLRA 196 (1988) and Department of Health and Human Services and Social Security Administration, 30 FLRA 922 (1988). Accordingly, Respondent's defense to the allegation of violation herein is rejected.⁽³⁾

In view of the entire foregoing and the record herein I reject Respondent's defenses and conclude Respondent violated section 7116(a)(1) and (5) of the Statute as alleged and 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 the Department of the Air Force, Air Force Materiel Command, Wright-Patterson Air Force Base, Dayton, Ohio, shall:

1. Cease and desist from:

(a) Changing conditions of employment of bargaining unit employees by establishing a reduction-in-force hotline without first providing the American Federation of Government Employees, Council 214, AFL-CIO, the agent of the employees' exclusive collective bargaining representative, with notice and an opportunity to negotiate concerning the substance, impact, and implementation of the change.

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

2. Take the following affirmative actions in order to effectuate the purposes and policies of the Federal Service Labor-Management Relations Statute:

(a) Notify and, upon request, negotiate with the American Federation of Government Employees, Council 214,

AFL-CIO, concerning any intended change in working conditions of bargaining unit employees regarding establishing a reduction-in-force hotline within the Air Force Materiel Command.

(b) Post at all its facilities where bargaining unit employees 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 Commander of the Air Force Materiel Command, and shall be posted and maintained for 60 consecutive days thereafter, in conspicuous places, including all bulletin 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 Chicago Region, 55 West Monroe, Suite 1150, Chicago, IL

60603-9729, in writing, within 30 days from the date of this Order, as to what steps have been taken to comply herewith.

Issued, Washington, DC, December 7, 1994

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 change conditions of employment of bargaining unit employees by establishing a reduction-in-force hotline without first providing the American Federation of Government Employees, Council 214, AFL-CIO, the agent of the employees' exclusive collective bargaining representative, with notice and an opportunity to negotiate concerning the substance, impact, and implementation of the change.

WE WILL NOT in any like or related manner, interfere with, restrain or coerce our employees in the exercise of their rights assured by the Federal Service Labor-Management Relations Statute.

(Activity)

Date:

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 Region, 55 West Monroe, Suite 1150, Chicago, IL 60603-9729, and whose telephone number is: (312) 353-6306.

1. I find the following cryptic and conclusionary testimony regarding this matter by a witness called by counsel for Respondent to be insufficient to support a finding that hotlines existed "throughout AFMC without objection.":

Q. Okay. Are you familiar with whether or not Commanders at other bases have hotlines?

A. It's my understanding just in -- in general conversation that, yes, they probably are.

2. Indeed there is no contention to the contrary.

3. Arguments related to this defense have also been considered and are rejected.