

FEDERAL LABOR RELATIONS AUTHORITY

Office of Administrative Law Judges WASHINGTON, D.C.

DEPARTMENT OF DEFENSE NAVAL AIR
STATION CORPUS CHRISTI, TEXAS Respondent
and AMERICAN FEDERATION OF
GOVERNMENT EMPLOYEES, LOCAL 1005, AFL-CIO
Charging Party

Case No. DA-CA-01-0422

Melissa McIntosh, Esquire For the General Counsel
Before: SUSAN E. JELEN Administrative Law Judge

DECISION ON MOTION FOR SUMMARY JUDGMENT

On May 23, 2001, the Regional Director for the Dallas Region of the Federal Labor Relations Authority (FLRA) issued a Complaint and Notice of Hearing which was duly served by certified mail upon the named Respondent. The Complaint alleged that the Department of Defense, Naval Air Station, Corpus Christi, Texas (herein called Respondent) violated section 7116(a)(1) and (5) of the Federal Service Labor-Management Relations Statute (the Statute), 5 U.S.C. § 7116(a)(1) and (5), by changing the location that police officers must be standing when they wave oncoming traffic through at the two guard shacks, located at the north entrance on Ocean Drive and at the south entrance on NAS Drive, without providing the American Federation of Government Employees, Local 1005, AFL-CIO (herein called Union) with notice and opportunity to negotiate over this change to the extent required by the Statute. A hearing was scheduled for October 16, 2001.

The Complaint specifically advised the Respondent that

an answer must be filed "no later than June 18, 2001" and that "a failure to file an answer or respond to any allegation in this complaint shall constitute an admission. See 5 C.F.R. § 2423.20(b)." Respondent did not file an answer, either in person or by mail, within the required period or at any time thereafter.

Since Respondent failed to answer the instant Complaint, Counsel for the General Counsel filed a Motion for Summary Judgment on September 25, 2001. Respondent also failed to file any response to the General Counsel's Motion for Summary Judgment within the 5 day time period provided for in the Regulations. See 5 C.F.R. § 2423.27(b).

No answer was received from the Respondent nor has the Respondent acknowledged receipt of any of the above-mentioned documents. Accordingly, Respondent has admitted all of the allegations of the Complaint. *Department of Veterans Affairs Medical Center, Asheville, North Carolina*, 51 FLRA 1572, 1594 (1996).

Conclusions

Section 2423.20(b) of the Authority's Rules and Regulations, 5 C.F.R. § 2423.20(b) provides, in pertinent part:

(b) *Answer.* Within 20 days after the date of service of the complaint, . . . the Respondent shall file and serve, . . . an answer. . . . Absent a showing of good cause to the contrary, failure to file an answer or respond to any allegation shall constitute an admission.

In this case the Respondent has not filed an answer as required by the Regulations. Furthermore, Respondent has not filed any response to the Motion for Summary Judgment. Accordingly, there are not disputed factual or legal issues in this case.

Consequently, it can only be found that the Respondent has admitted that it changed the location that police officers must be standing when they wave oncoming traffic through at the two guard shacks, located at the north entrance on Ocean Drive and at the south entrance on NAS Drive, without providing the Union with notice and an opportunity to bargain over the change. Thus, Respondent violated section 7116(a)(1) and (5) of the Statute as alleged.

Counsel for the General Counsel proposed a recommended remedy requiring the Respondent to negotiate with the Union concerning the location of guards who wave the traffic into the Naval Air Station to the extent required by the Statute and a posting of an appropriate Notice To All Employees signed by the Commanding Officer at the Naval Air Station, Corpus Christi, Texas. In the circumstances of this case, it is found that the proposed remedy does effectuate the purposes and policies of the Statute.

Accordingly, it is recommended that the Authority grant the General Counsel's Motion for Summary Judgment and issue the following Order:

ORDER

Pursuant to section 2423.41(c) of the Authority's Rules and Regulations and section 7118 of the Federal Service Labor-Management Relations Statute, it is hereby ordered that the Department of Defense, Naval Air Station, Corpus Christi, Texas, shall:

1. Cease and desist from:

(a) Unilaterally changing the location of guards who wave the traffic into the Naval Air Station without providing the American Federation of Government Employees, Local 1005, AFL-CIO with notice and an opportunity to negotiate over the change to the extent required by the Federal Service Labor-Management Relations Statute.

(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 action in order to effectuate the purposes and policies of the Federal Service Labor-Management Relations Statute:

(a) Upon request, negotiate with the American Federation of Government Employees, Local 1005, AFL-CIO, over changing the location of guards who wave the traffic into the Naval Air Station to the extent required by the Federal Service Labor-Management Relations Statute.

(b) Post at the Department of Defense, Naval Air Station, Corpus Christi, Texas, where the bargaining unit employees represented by the American Federation of Government Employees, Local 1005, AFL-CIO 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 Commanding Officer of the Naval Air Station, Corpus Christi, Texas, 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 ensure that such Notices are not altered, defaced or covered by any other material.

(c) Pursuant to section 2423.41(e) of the Authority's Rules and Regulations, notify the Regional Director, Dallas 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., October 9, 2001.

SUSAN E. JELEN

Administrative Law Judge

NOTICE TO ALL EMPLOYEES

POSTED BY ORDER OF THE

FEDERAL LABOR RELATIONS AUTHORITY

The Federal Labor Relations Authority has found that the Department of Defense, Naval Air Station, Corpus Christi, Texas violated the Federal Service Labor-Management Relations Statute, and has ordered us to post and abide by this Notice.

WE HEREBY NOTIFY OUR EMPLOYEES THAT:

WE WILL NOT unilaterally change the location of guards who wave the traffic into the Naval Air Station without providing the American Federation of Government Employees, Local 1005, AFL-CIO with notice and an opportunity to negotiate over the change to the extent required by the Federal Service Labor-Management Relations Statute.

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.

WE WILL, upon request, negotiate with the American Federation of Government Employees, Local 1005, AFL-CIO concerning the location of guards who wave the traffic into the Naval Air Station to the extent required by the Statute.

(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 with the Regional Director of the Federal Labor Relations Authority, Dallas Regional Office, 525 Griffin, Suite 926, LB 107, Dallas, Texas 75202, and whose telephone number is (214)767-4996.