

VERMONT LABOR RELATIONS BOARD

UNITED PROFESSIONS OF)	
VERMONT/AFT)	
)	DOCKET NO. 01-46
and)	
)	
VERMONT STATE COLLEGES)	

MEMORANDUM AND ORDER

The issue before the Labor Relations Board is whether the Director of Financial Aid at Castleton State College is eligible to vote in the election in this matter. The United Professions of Vermont/AFT (“Union”) contends that he should be allowed to vote; the Vermont State Colleges (“Employer”) contends that he is ineligible to vote. The Union and Employer agreed to the Labor Relations Board deciding this matter based on written submissions of the parties, which were filed by the Employer and Union on April 16 and 17, 2002, respectively.

The pertinent facts are not disputed. Pursuant to the March 28, 2002, Order of the Labor Relations Board setting the terms and conditions of the election in this matter, “employees eligible to vote in this election are those . . . employed as of the payroll period ending March 30, 2002”. The Director of Financial Aid at Castleton State College was on the payroll as of March 30, 2002, and remains on the payroll. He has an employment contract through June 30, 2002. He has been on medical leave since at least February 2002. In February 2002, he informed Castleton State College President David Wolk that he intended to retire June 30, 2002. He had a second surgery on March 27, necessitating a six-day stay in the hospital. In an April 5, 2002, letter to the Board, he indicated that, as a result of complications, his recovery was expected to take two to three months.

In determining whether the Director of Financial Aid is eligible to vote in the election, we are guided by the standards applied by the National Labor Relations Board

in cases where an issue is raised concerning the eligibility of an employee on sick leave to vote in an election. The Board has long held that an employee on sick leave is presumed to be eligible to vote absent an affirmative showing that the employee has resigned or been discharged. Wright Mfg. Co., 106 NLRB 1234, 1236-37 (1953). Red Arrow Freight Lines, 278 NLRB 965 (1986). Thorn Americas, Inc. 314 NLRB 943 (1994). Vanalco, Inc., 315 NLRB 618 (1994). If an employee is on sick leave and has not actually terminated employment before the election, the Board has decided the employee is eligible to vote in the election. Wright Mfg. Co.; Red Arrow Freight Lines; Thorn Americas, Inc.

In applying these standards to this case, we conclude that the Director of Financial Aid at Castleton State College is eligible to vote in the election. He was employed on March 30, 2002. He is currently on medical leave and remains on the employer's payroll. Even though he has announced his intention to resign in a few months, this is not of controlling significance since his employment is not actually terminating before the election.

It is ordered that the Director of Financial Aid at Castleton State College is eligible to vote in the election in this matter.

Dated this ____ day of April, 2002, at Montpelier, Vermont.

VERMONT LABOR RELATIONS BOARD

Catherine L. Frank, Chairperson

Carroll P. Comstock

Richard W. Park