

VERMONT LABOR RELATIONS BOARD

DENNIS DION

v.

TEAMSTERS LOCAL 597

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DOCKET NO. 03-47

MEMORANDUM AND ORDER

The issue before the Labor Relations Board is whether to issue an unfair labor practice complaint. On October 24, 2003, Dennis Dion, an employee of Chittenden County Transportation Authority, filed an unfair labor practice charge against Teamsters Local 597 ("Union"). Dion contends that the Union violated 21 V.S.A. Section 1726(b)(1) of the Municipal Employee Relations Act through an October 9, 2003, letter that Union Secretary-Treasurer Ronald Rabideau sent him concerning the removal of a meeting notice posted by him on the Union bulletin board in the workplace.

Section 1726(b)(1) provides in pertinent part that "it shall be an unfair labor practice for an employee organization or its agents . . . (t)o restrain or coerce employees in the exercise of the right(sic) guaranteed to them by law, rule or regulation." Dion alleges that Rabideau restrained him from exercising rights guaranteed to him by Article 20 of the Vermont Constitution and the First Amendment to the United States Constitution. Dion states that he "cancelled a previously scheduled meeting in response to the coercive nature of Mr. Rabideau's letter". The Union filed a response to the unfair labor practice charge on November 5, 2003. Dion filed a reply to the Union's response on November 18, 2003.

The following facts, which are undisputed, are pertinent in deciding whether to issue an unfair labor practice complaint: In early October 2003, Dion posted a notice on

the Union bulletin board at the Chittenden County Transportation Authority that provided:

October 19<sup>th</sup>

Local #597

2:00 – 4:00 p.m.  
SUNDAY

MALLETTS BAY FIRE HOUSE

To Discuss upcoming contract

Read your contract

? See Dennis

Rabideau sent Dion a letter dated October 9, 2003, that provided in pertinent part:

On October 2, 2003 I was contacted by a bargaining unit member at your work location and advised that you had posted a notice on the union bulletin boards at CCTA. I instructed that person to tell the shop steward Kim Tanner to remove from the bulletin boards the notice you had posted immediately.

The union bulletin boards at CCTA are for the exclusive use of the union office in Barre, Vermont, your business agent Duane Messier, myself the Secretary-Treasurer of the Local Union and Shop Steward Kim Tanner when authorized by Mr. Messier, myself or the Local 597 Executive Board.

You have no authorization or authority to be posting any type of information on the union bulletin boards.

. . . Upon reviewing the notice, . . . it appears that you are calling a meeting authorized by Local 597. You have no authority to post a notice which seems to have come from Local Union 597 calling for a meeting on 10/19/03.

You are not authorized to represent any of the members of Local 597 working at CCTA. You are a rank and file member of Local 597. You are not elected to office at Local 597 . . .

You also have no authority to call a meeting of the rank and file members to discuss the upcoming contract. This is a function and duty of the elected union officers and business agents of Local 597.

I am advising you to cease and desist these activities immediately. There are avenues in the Bylaws of the Local Union to address your failure to comply with my advisement contained in this letter.

The Board has discretion whether to issue an unfair labor complaint and hold a hearing on an unfair labor practice charge. 3 V.S.A. §965(a). In exercising its discretion, the Board will not issue a complaint unless the charging party sets forth sufficient factual allegations for the Board to conclude that the charged party may have committed an unfair labor practice. Burke Board of School Directors v. Caledonia North Education Association, 17 VLRB 187 (1994).

We exercise our discretion in this case to decline to issue an unfair labor practice complaint. A prerequisite to finding a violation of the constitutional provisions cited by Dion is action by government. Article 20 concerns the right of the public to assemble, instruct their representatives, and apply to the Legislature for redress of grievances. The First Amendment to the United States Constitution states that “Congress shall make no law . . . abridging the freedom of speech”. The action at issue does not involve government action. Instead, it involves action by a union to regulate use of its bulletin boards.

Moreover, the Union did not restrain or coerce Dion in the exercise of any other rights guaranteed to him by law, rule or regulation. In removing the notice from the Union bulletin board and advising Dion to cease such activities, the Union was exercising its legitimate authority to regulate matters posted on its bulletin board. The notice posted by Dion appeared to be announcing a meeting of the Union. The Union was entitled to remove this notice since the Union had called no such meeting and Dion lacked authority to do so. The Union reasonably sought to ensure that its members did not attend the meeting called under false pretenses. The Union does not have the power and authority generally to prohibit Dion from meeting with other employees; however the Union

legitimately may seek to prevent Dion from using the Union bulletin board to announce meetings that appear to be Union meetings. That is precisely what the Union did here, and that is what we understand to be the thrust of the Union Secretary-Treasurer's October 9 letter to Dion.

Based on the foregoing reasons, we decline to issue an unfair labor practice complaint and it is ordered that the unfair labor practice charge filed by Dennis Dion in this matter is dismissed.

Dated this 4th day of March, 2004, at Montpelier, Vermont.

VERMONT LABOR RELATIONS BOARD

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Richard W. Park, Chairperson

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Carroll P. Comstock

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John J. Zampieri

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Edward R. Zuccaro

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Joan B. Wilson