

VERMONT LABOR RELATIONS BOARD

NORTHEAST KINGDOM SCHOOL BUS DRIVERS' )  
FEDERATION, VERMONT FEDERATION OF )  
TEACHERS, AFT, AFL-CIO )

v. )

WALL'S TRANSPORTATION SERVICE and )  
KATHERINE TESTER, MANAGER )

DOCKET NO. 79-45R

MEMORANDUM AND ORDER, DECLINING TO  
ISSUE UNFAIR LABOR PRACTICE COMPLAINT'

Statement of the Case

On June 20, 1979, the Northeast Kingdom School Bus Drivers' Federation, Vermont Federation of Teachers, AFT, AFL-CIO (hereinafter, the "Petitioner"), filed a petition with the Vermont Labor Relations Board charging Wall's Transportation Service and Katherine Tester, Manager, (hereinafter, the "Employer"), had committed unfair labor practices in violation of 21 V.S.A. §1621(a)(1) and (4). The petition alleges the Employer, by refusing to pay two employees who testified before this Board in another matter a perfect attendance bonus for that month, 1) interfered with, restrained and coerced employees in the exercise of their right to engage in concerted activities for the purpose of collective bargaining; and 2) discriminated against employees for filing charges and giving testimony under the State Labor Relations Act (21 V.S.A. §1501 et seq.).

The Employer did not file an answer to the Petitioner's charges.

An investigation into the charges was conducted by the Clerk of the Board on June 22, 1979. As a result of that investigation, we decline to

issue an unfair labor practice complaint as the verified facts fail to constitute conduct violative of the Act.

#### SUMMARY OF THE FACTS

Our investigation revealed that the Employer, faced with an excessive absenteeism problem, instituted a policy to encourage better attendance. A ten dollar monthly bonus is paid to each bus driver who maintains a perfect attendance record for that month. There are no exceptions to the perfect attendance standard to be eligible for the bonus. For instance, if a driver is out due to illness or even a death in the family, and otherwise maintained a "perfect" attendance record, he is not eligible for the bonus that month, irrespective of absences out of the employee's control.

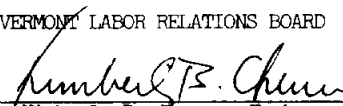
Two drivers, John Coe and Earl Newland, were subpoenaed to appear and did appear before this Board on April 5, 1979, for another matter. Both Messrs. Coe and Newland are officers of the petitioning employee organization. Both drivers reported to work as scheduled on every other workday in April, 1979, except April 5. Nonetheless, because of their absence from duty on that day, they were not paid the April perfect attendance bonus.

We find the Employer's denial of that bonus to drivers Coe and Newland was not related to protected union activity. Where the Employer had previously established that there would be no exceptions to the attendance standard set by the policy, irrespective of unavoidable absences, we do not find any violation of these employees' rights protected under 21 V.S.A. §1503.

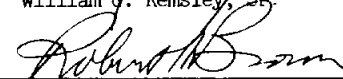
Now, therefore, it is hereby ORDERED that the Board shall decline to issue a complaint in this matter.

Dated this 24th day of June, 1980, at Montpelier, Vermont.

VERMONT LABOR RELATIONS BOARD

  
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Kimberly B. Cheney, Chairman

  
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William G. Kemsley, Jr.

  
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Robert H. Brown