

**THE PUBLIC REVIEW BOARD
INTERNATIONAL UNION, UAW**

APPEAL OF:

JOSEPH W. KARNIEWICZ, SR.,
Appellant,

-vs-

CASE NO. 1505

LOCAL UNION 1999 EXECUTIVE BOARD,
(Oklahoma City, Oklahoma)
REGION 5
INTERNATIONAL EXECUTIVE BOARD, UAW
(THE UNITED AUTOMOBILE, AEROSPACE
AND AGRICULTURAL IMPLEMENT
WORKERS OF AMERICA),
Appellee.

DECISION

(Issued June 23, 2005)

PANEL SITTING: Prof. Theodore J. St. Antoine, Chairperson,
Prof. Benjamin Aaron, Prof. Janice R. Bellace,
Prof. James J. Brudney, Prof. James E.
Jones, Jr., Prof. Maria L. Ontiveros, and
Prof. Paul C. Weiler.

Joseph W. Karniewicz argues that the charges he filed against Vaughn Daugherty and Jim York satisfied the requirements of Article 31, §3, of the International Constitution.

FACTS

Joseph W. Karniewicz is a member of UAW Local 1999 in Oklahoma City, Oklahoma. On March 27, 2004, Karniewicz filed a charge pursuant to Article 31 of the International Constitution against Local Shop Chairperson Vaughn Daugherty and Second Shift Trim Committeeperson Jim York with the Local Union's Recording Secretary. Karniewicz's charge states:

“On March 22, 2004, at approximately 6:00 pm, I was confronted by Daugherty and York at my Skilled Trades work area located at Body Shop column DD-33. Daugherty removed a paper from his pocket, unfolded it, held it in front of me, and inquired if it was mine. When I said yes it was, he said that was all his ‘witness’ needed to hear from me.

When I asked why he needed a witness, he said 'You're going to find out what it's like to play with the big boys!'

I told him that sounded like a threat and they left.

I do have an impartial witness who will state that what I say is true."¹

Karniewicz argued that the behavior of Daugherty and York violated the Labor Management Reporting and Disclosure Act (LMRDA) in that neither Daugherty nor York notified Management that they intended to conduct Union business with him. In addition, Karniewicz charged that Daugherty and York used Union and Company time to try to intimidate him. Finally, Karniewicz claimed that Daugherty misused his high-ranking Union position to try to intimidate him.

Karniewicz's charge was presented to the Local 1999 Executive Board at a meeting on March 31, 2004. The Executive Board adopted a motion to find the charge improper under Article 31, §3(d), of the International Constitution.² Recording Secretary Sarita Stephney advised Karniewicz of the Local Executive Board's decision in a letter dated April 6, 2004.

On April 12, Karniewicz wrote to Recording Secretary Stephney and requested that his charge dated March 23 be withdrawn. Karniewicz then submitted a revised charge in which he stated that the behavior of Daugherty and York not only violated the LMRDA, but also constituted conduct unbecoming a union member. Karniewicz maintained that he was entitled to file a revised charge regarding the incident on March 22, because the time limits stated in Article 31, §2, of the Constitution had not expired. Karniewicz argued further that these were not policy violations to be resolved by the Local Union membership as indicated by the Local Executive Board's ruling on his first charge.³

Karniewicz attached to his revised charge a statement signed by Jerry Lemmings confirming that the incident took place on March 22 as described in the charge.⁴ The revised charge also included the paper which Daugherty was alleged to have shown to Karniewicz on March 22. The paper is a leaflet which reads as follows:

¹ Record, p. 1.

² Record, p. 7.

³ Record, p. 10.

⁴ Record, p. 12.

“WANTED

**UGLY Vote for Vaughn Daugherty caps

REWARD

Why wear an Ugly ‘Vote for me’ cap when you can trade up to a practical and limited edition (summer style web back) Black & Gold cap sporting the UAW Local 1999 logo, and proudly proclaiming ‘We are Solidarity!’ Cap is American made and Union printed.

*Note: all Ugly caps exchanged during this limited time offer will be donated to the Oklahoma City Homeless Shelter!

See: Joseph W. Karniewicz Sr.
2nd Shift Body Shop, S-Line Electrician”⁵

On April 15, 2004, Recording Secretary Stephney advised Karniewicz that the Local Executive Board had determined that his charge satisfied the requirements of Article 31, §3, of the International Constitution. Stephney stated that the drawing of names for the Trial Committee would be held at the regular membership meeting scheduled for May 16, 2004.

On April 18, 2004, Vaughn Daugherty appeared before the membership of Local Union 1999 at a membership meeting and apologized to Karniewicz for any action he may have taken that was offensive. The minutes of the meeting indicate that Daugherty addressed the membership as follows:

“...I would like to offer, in front of the membership, to Mr. Karniewicz if he is here, that if I have in some way or in any way offended Mr. Karniewicz in the past few weeks, it was totally unintentional. In light of offering him my hand in a public apology, if he has felt that I have in some way offended him, if there was some behavior that he felt was unbecoming, I would like to take this opportunity to offer a public apology to him in light of him rescinding any charges he may have.”⁶

According to the minutes, Karniewicz responded that he had given Daugherty a chance to make a public apology immediately following the incident in return for dropping the

⁵ Record, p. 13.

⁶ Record, p. 15.

charge, but that no apology was given. Karniewicz stated that he had withdrawn the offer to withdraw the charge in return for a public apology.⁷

Later on during this same meeting, the minutes of the Local Executive Board meeting on April 14, 2004, were presented to the membership for approval. At this point, the minutes indicate that Daugherty appealed the Executive Board's decision that Karniewicz's revised charges were proper under Article 31 of the Constitution. A motion requesting the membership to overturn the Local Executive Board's action was then introduced and the motion passed.⁸ On April 20, 2004, Recording Secretary Stephney advised Karniewicz that the membership had voted to overturn the Executive Board's ruling on his charges and that he had a right to appeal the membership's decision pursuant to Article 33 of the International Constitution.

Karniewicz appealed the membership's action to the International Executive Board (IEB) on April 26, 2004. In support of his appeal, Karniewicz argued that the membership meeting of April 18 was stacked in Daugherty's favor, and that there were periods of loud applause from Daugherty's supporters. Karniewicz stated that the meeting was more of a political rally than a membership meeting. In conclusion, Karniewicz wrote:

“Shop Chairman Vaughn Daugherty offered a feeble and lame apology without actually admitting to any wrongdoing, or him getting into any of the details surrounding my charges. This strategy worked, and resulted in the loss of any possible support or sympathy I might have gained. I was made to feel as if I was the one whom the charges were placed against.”⁹

Presidential Administrative Assistant Dave Curson responded to Karniewicz's appeal on May 7, 2004. Curson took the position that Karniewicz had no right under the Constitution to withdraw his original charge after it had been presented to the Local Executive Board. Curson advised Karniewicz that if he disagreed with the Local Executive Board's ruling of March 31, 2004, he should have appealed that ruling to the IEB. Curson informed Karniewicz that he could still file such an appeal if he submitted it promptly.¹⁰

Karniewicz filed an appeal to the IEB on May 17, 2004, from the Local Executive Board's ruling of March 31 that his charge failed to satisfy the requirements of Article 31 of the Constitution. President Gettelfinger's staff determined that a hearing was unnecessary on Karniewicz's appeal and it prepared a report on his behalf for the IEB

⁷ Record, p. 16.

⁸ Record, p. 17.

⁹ Record, p. 25.

¹⁰ Record, pp. 26-27.

based on the information provided by the appellant and Local Union 1999. Staff ruled that Karniewicz's charge failed to satisfy the requirements of Article 31, §3(c), of the Constitution in that it did not describe conduct which would constitute a violation of the Constitution or conduct unbecoming a member of the union.¹¹ Staff denied Karniewicz's appeal and its report was adopted by the IEB as its decision. A copy of the IEB's decision was mailed to Karniewicz on January 3, 2005. Karniewicz appealed the IEB's decision to the Public Review Board (PRB) on January 31.

ARGUMENT

A. Joseph W. Karniewicz, Sr.:

My charges did meet the requirements of Article 31, §3, of the Constitution and should have been submitted to a Trial Committee. My charges were timely and specific. Daugherty and York tried to intimidate me while they were being paid by the Local Union. This act constituted conduct unbecoming a union member.

Furthermore, these serious charges should not have been decided by a vote of the general membership at a membership meeting. When this matter was placed before the membership, most of the members present were Union appointees who had been pressured to attend this meeting and vote in favor of the charged individuals. It was obvious that the proceedings had been well rehearsed. Members outside of the clique did not even know what was happening.

B. International Union, UAW:

Article 31, §3, of the UAW Constitution requires that when charges are presented by a local union member, the Local Union Executive Board will review them to determine whether they are proper. Karniewicz's charge against Daugherty and York is clearly deficient under this section. Karniewicz does not complain of a violation of the UAW Constitution. Furthermore, the acts he describes would not constitute conduct unbecoming a member of the union. Daugherty's statement to Karniewicz is at most an equivocal taunt. Indeed, the minutes of the membership meeting that took place on April 18, 2004, reveal that Karniewicz was not sure what Daugherty meant by the statement. It is clear that the act complained of is not sufficiently severe to sustain a charge of conduct unbecoming a union member as required by Article 31, §3(c), of the Constitution.

DISCUSSION

When a local union member presents a charge pursuant to Article 31 of the International Constitution, the Local Union Executive Board must determine whether the allegations made, if assumed to be true, would satisfy the requirements of each of the five items listed in Article 31, §3.¹² If the charges are found to be proper they must be

¹¹ Record, p. 39.

¹² Article 31, §3, provides, in pertinent part, as follows:

submitted to a Trial Committee. If not, they must be dismissed. The membership has no role to play in this process. The Local 1999 membership had no authority under the Constitution to entertain Daugherty's motion to overturn the Local Executive Board's conclusion that Karniewicz's charge satisfied the requirements of Article 31, §3, of the International Constitution and therefore, its ruling on the matter was invalid.¹³

The appropriate way for Daugherty to have challenged the Local Executive Board's finding that Karniewicz's amended charge was proper under Article 31, §3, of the Constitution would have been for him to appeal that ruling directly to the International Executive Board pursuant to Article 33, §3(d), of the Constitution.¹⁴ The Constitution provides for a stay of trial proceedings whenever such an appeal is filed until the issues are resolved by the IEB and an order is issued by the International President.¹⁵

On the other hand, we do not see any Constitutional bar to Karniewicz's amendment of his original charge. Article 31, §2, of the Constitution requires that charges be submitted within 60 days of the time the complainant first became aware, or

"Prior to notification to a member that charges have been filed against her/him, the Local Union Executive Board, or, in the case of an Amalgamated Local Union, the Unit Workplace Organization of which s/he is a member, shall review the charges and consider them improper if:

- (a) The charges do not state the exact nature of the alleged offense as required by Section 1 of this Article;
- (b) The charges are untimely under Section 2 of this Article;
- (c) The act complained of does not sustain a charge of a violation of the Constitution or conduct unbecoming a member of the Union;
- (d) The charges involve a question which should be decided by the membership at a membership meeting and not by the trial procedure.
- (e) In all cases, an otherwise proper charge(s) must be supported by substantial direct evidence as well as evidence of at least one (1) corroborating witness, which, if unrebutted, would establish all the elements of the charge(s)."

¹³ *Adams v. Local Union 425, UAW*, 6 PRB 464 (1992); and *Cain and Dennis v. UAW Local Union 862 Executive Board*, 9 PRB 407 (1997).

¹⁴ The relevant portion of Article 31, §3, provides as follows:

"Both the accused and the accuser shall be notified in writing of the Executive Board's or Unit Workplace Organization's determination and either the accused or the accuser may appeal from such determination, pursuant to Article 33, Section 3(d), Such an appeal must be limited to the question of whether the charges are proper or improper under items (a), (b), (c), (d) or (e) of this Section."

¹⁵ The relevant portion of Article 31, §3, provides:

"If a trial is ordered by the Local Union Executive Board and this order is appealed, no such trial shall be held until the matter has been submitted to, and an order thereon received, from the International President."

reasonably should have become aware, of the alleged offense. Karniewicz's amended charge was filed on April 12, 2004, concerning an incident that occurred on March 22. The amended charge was filed within the time limits prescribed by the Constitution, so he was entitled to have it considered by the Local Executive Board. The fact that a previous charge had been filed and withdrawn was not relevant to the merits of the amended charge.

Karniewicz was not prejudiced by the International Union's ruling on this issue, however, because his amended charge should also have been disqualified under Article 31, §3(c), for the allegation does not sustain a charge of a violation of the Constitution or conduct unbecoming a union member. In the first place, we note that the conduct that Karniewicz objected to was Daugherty's response to a leaflet distributed in connection with a Local political campaign. We have repeatedly held that sharp attacks directed towards one's opponent in a political campaign do not constitute conduct unbecoming a union member.¹⁶ The fact that Daugherty and York may have been on Union or Company time when they addressed Karniewicz about the leaflet is of no significance. Furthermore, Karniewicz has not explained what he found objectionable about Daugherty's apparently innocuous jest. He states that he regarded Daugherty's statement as threatening, but it is difficult to imagine what the nature of the alleged threat was. In this sense the charge also lacked the specificity required by Article 31, §3(a).

The appeal is denied.

¹⁶ *Dombeck vs. Local Union 1645*, 5 PRB 493 (1988) and *Bob and Alma King v. UAW Local 600 Executive Board*, PRB Case No. 1464, (April 27, 2004)