

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

APPEAL OF:

CHARLES REIGHARD, Member,
LOCAL UNION 1112, UAW
REGION 2B
(Warren, Ohio),

Appellant,

-vs-

CASE NO. 1532

INTERNATIONAL UNION, UAW
(THE UNITED AUTOMOBILE, AEROSPACE
AND AGRICULTURAL IMPLEMENT
WORKERS OF AMERICA),
Appellee.

DECISION

(Issued January 24, 2006)

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.

Charles Reighard seeks to appeal President Gettelfinger's determination that circumstances did not warrant a waiver of the time limits on his appeal from the withdrawal of his grievance to the International Executive Board.

FACTS

Charles J. Reighard worked at General Motors' plant in Lordstown, Ohio, with a seniority date of April 5, 1971.¹ He was terminated on April 28, 1999. A grievance protesting the termination was withdrawn on October 30, 2000, and Reighard was notified of this action by certified mail.² In September 2002, Reighard's attorney contacted the Local Union and asked that the grievance be reopened based on newly-discovered evidence. The Local Union did not respond to this request.³ On April 16, 2003, Reighard forwarded all of his material to GM Department Representative Scott

¹ Record, p. 34.

² Record, p. 17.

³ Record, pp.14-15.

Farraday. Farraday interviewed the Local Representatives and concluded that the grievance was properly withdrawn. Farraday notified Reighard of his decision on April 23, 2003.⁴

On December 12, 2004, Reighard attempted to appeal the handling of his grievance by Local Union 1112 to the International Executive Board (IEB).⁵ Administrative Assistant Don Sarkesian responded to Reighard's appeal on January 10, 2005. Sarkesian advised Reighard that his grievance could not be considered because it was untimely within the meaning of Article 33, §4(b) and (c), of the International Constitution.⁶ On January 26, 2005, Reighard attempted to appeal Sarkesian's decision to the Public Review Board (PRB). He submitted his appeal in care of the International President in accordance with Article 33, §3(f), of the International Constitution. He received a response from President Gettelfinger on February 10, 2005. Gettelfinger advised Reighard that his appeal to the PRB was premature, but that he would treat the appeal as a request to waive the time limits. Gettelfinger wrote:

"I cannot see any new circumstances that would warrant a waiver of the time limits. Consequently, pursuant to my authority as provided in Article 33, §4(d), of the International Constitution, your request is respectfully denied."⁷

Reighard attempted to appeal President Gettelfinger's decision not to waive the time limits on his appeal to the IEB on February 28, 2005.⁸ After he received no response to this appeal, he wrote again on March 2 and April 21, 2005. On April 27, 2005, Administrative Assistant Sarkesian responded to Reighard as follows:

"Your request to appeal the decision of UAW President Ron Gettelfinger, because he did not waive the time limits, cannot be considered.

President Gettelfinger is the only one who can waive the time limits, per Article 33, §4(d), of the UAW International Constitution.

Therefore, as a result of his determination not to waive the time limits, we have closed our file regarding your request.

⁴ Record, p. 17.

⁵ Record, pp. 1-2.

⁶ Record, p.3.

⁷ Record, p. 4.

⁸ Record, pp. 5-6

There are no further appeal avenues available to you, per the UAW International Constitution.”⁹

Reighard appealed President Gettelfinger’s ruling to the PRB on May 5, 2005. PRB Director Barbara Klein initially advised Reighard that his appeal could not be considered because it appeared to be untimely.¹⁰ On August 26, 2005, attorney Ellis Boal submitted an appeal in care of the International President, jointly addressed to the IEB and the PRB, asking for a review of President Gettelfinger’s determination that the circumstances did not warrant a waiver of the time limits.¹¹ Presidential Administrative Assistant Eunice Stokes-Wilson responded to Boal’s letter on September 1 stating that there was no Constitutional basis for the PRB to review President Gettelfinger’s decision not to waive the time limits for filing an appeal.¹²

On October 6, Boal wrote to Local 1112 requesting documents related to Reighard’s grievance and appeal. The Local responded to Boal on October 12, 2005, that all inquiries regarding Reighard’s appeal should be directed to the International Union. Boal forwarded his correspondence with Local 1112 directly to the PRB on October 18, 2005, and stated that it was relevant to Reighard’s August 26 appeal from President Gettelfinger’s refusal to waive the time limits on his grievance appeal.¹³ On October 31, 2005, Director Klein advised Boal that the PRB had not received any appeal from President Gettelfinger’s decision not to waive the time limits on Reighard’s appeal.¹⁴

On November 7, 2005, Boal forwarded to the PRB Reighard’s August 26, 2005, appeal as well as his earlier attempts to appeal to the IEB. On November 15, 2005, PRB staff docketed Reighard’s appeal so that the procedural issue raised by the International’s refusal to process the appeal could be considered.

ARGUMENT

A. Charles Reighard, by his attorney Ellis Boal:

The President’s grant or refusal of a waiver of time limits is itself reviewable, particularly where a matter of obvious substance is involved. *Ponce and Martinez, v. Local Union 492, UAW*, 8 PRB 449 (1994)¹⁵; *Hale and Crowder v. Local Union 326, UAW*, 9 PRB 35, (1995).¹⁶ The issue presented here is whether this is such a case.

⁹ Record, p. 8.

¹⁰ Record, pp. 10, 18.

¹¹ Record, pp. 31-43.

¹² Record, p. 45.

¹³ Record, p. 49.

¹⁴ Record, p. 50.

¹⁵ That decision states:

We argue that it is because of the unusual circumstances that led to Reighard's termination. Evidence was eventually uncovered which established Reighard's innocence of the vandalism for which he was discharged. The Company then refused to consider his reinstatement because he had previously claimed, falsely, that he was responsible for the vandalism. The Local Union abandoned his grievances and refused to meet with him. Reighard's seniority date was April 5, 1971. He had over 28 years in the plant.

The reasons the waiver should be reviewed are different in two different time periods. In the first period, from 2000 to 2003, Reighard was under a Court order to have no contact with GM employees. Although the Court Order expired in April 2003, Reighard was at this time suffering from depression, and he was in no shape to conduct any business. This is demonstrated by the letters of his doctors, Robert Waite and Samuel Detweiler. Despite his depression, Reighard continued in fitful ways to make contact with the Union to determine why his grievances had been dropped so suddenly.

The President was or should have been aware of the Court Order covering the period from 2000 to 2003, which originally ran until 2005. He therefore abused his discretion in refusing to grant a waiver of the time limits for this period. The President cannot have known about Reighard's depression in the subsequent years, and we ask that the matter be remanded to the President so that he can consider the request for a waiver in an informed way.

B. International Union, UAW:

There is no question that Reighard's appeal was untimely within the meaning of Article 33, §4(c), of the International Constitution. Therefore, the only way that the appeal could be considered was for the President to waive the time limits for appeal. Article 33, §4(d), of the International Constitution provides as follows:

"EXTENSIONS OF TIME. In the case of an appeal to a Local Union, Amalgamated Local Union, or other subordinate body, or in the case of an appeal to the International Executive Board or Convention Appeals Committee, the International President may waive the time for filing the appeal if warranted by the circumstances."

"We are, moreover, frankly reluctant to give blanket sanction to rules which provide technical barriers to the resolution of appeals on their merits. Indeed, we have on occasion ruled that the President should have waived the time limits where an issue of obvious substance was involved." (Footnote omitted) (8 PRB 449, at 452)

¹⁶ This case involved a challenge to the President's conclusion that circumstances did warrant a waiver of the time limits. The PRB considered the challenge, and upheld the President's decision. (9 PRB 35, at 43)

Under this section, only the International President is authorized to make the decision that circumstances warrant a waiver of the time limits. His decision on this issue cannot be overruled by the PRB or the IEB. Therefore, when the President denies a request for a waiver, there is nothing to appeal. For this reason, the International President's staff advised appellant that no useful purpose would be served by further processing of his appeal.

DISCUSSION

There has been no review of Reighard's appeal by the IEB so the merits of his claim are not before us. We have docketed this case solely to consider the narrow procedural question whether a decision by the International President not to waive the time limits applicable to an appeal may be reviewed by the IEB.

The fact that Article 33, §4(d), does not specifically mention the reviewability of a decision by the International President regarding extensions of time does not preclude review of such decisions by the IEB. The IEB's power to review decisions of the International President is inherent in the structure of the organization established by the International Constitution. The President is a member of the IEB and acts on its behalf between sessions subject to its approval. Thus, the President is required by Article 13, §1, to report his or her activities to the quarterly meeting of the IEB for approval or rejection. The right of the IEB to overrule any decision of the President is stated explicitly in Article 12, §18, of the International Constitution. That section states:

"The International Executive Board may rescind, reverse or repeal any action of any of the International Officers or Representatives."

Of course, the decision whether to review or repeal a decision by the International President is entirely within the discretion of the IEB. Our holding is simply that the IEB does have the authority to do so.

This case is remanded to the IEB for appropriate action.