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STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of

Summit County Department of
Human Services

Case No. 85-US-04-3340

v

American Federation of State, County
and Municipal Employees, Local 696

ORDER

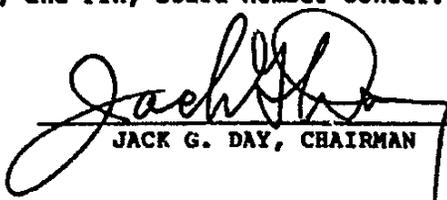
Before Chairman Day, Board Member Fix, April 5, 1985.

The Board meets in emergency session pursuant to Ohio Revised Code
121.22(F)-Vice-Chairman Sheehan participating by telephone from Cincinnati.

The occasion for the meeting is the Notice of Strike and Request for
Determination of Unauthorized Strike filed by the Summit County Department of
Human Services on Thursday, April 3, 1985 pursuant to the Ohio Revised Code
4117.23. The request is denied. The reasons supporting the ruling and
explaining the lack of necessity for an oral hearing are set down in the
accompanying opinion.

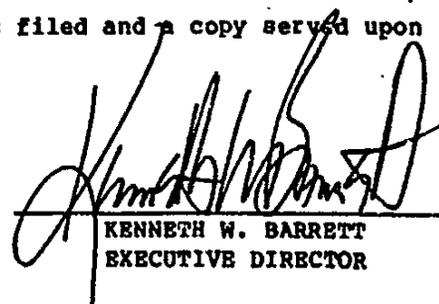
It is so ordered.

DAY, Chairman; SHEEHAN, Vice-Chairman; and FIX, Board Member concur.



JACK G. DAY, CHAIRMAN

I hereby certify that this document was filed and a copy served upon
each party on this 5 day of April, 1985.



KENNETH W. BARRETT
EXECUTIVE DIRECTOR

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of
Summit County Department of
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Case No. 85-US-04-3340

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and Municipal Employees, Local 696

OPINION

Day, Chairman:

Meeting in emergency session,¹ the State Employment Relations Board (SERB or Board) has considered the request of the Summit County Department of Human Services (Employer or Summit) for a determination that a strike by American Federation of State, County & Municipal Employees, Local 696 (AFSCME or union) is unauthorized.² For reasons adduced below, the decision does not require an oral hearing.

The undisputed facts are:

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1) Notice to strike was given to the employer on February 14, 1985, and a copy was mailed to SERB on the same date. The notice to the Board was received on February 19, 1985 at 5:13 p.m.

¹ See R.C. 121.22(F); Ohio Administrative Code 4117-25-01(C).

² See R.C. 4117.23; Ohio Administrative Code 4117-13-01(A)(B).

2) The notice was specific as to the time and date of the strike, i.e., 12:01 a.m., February 25, 1985 and thus satisfied the 10-day notice and specificity requirements.³

3) The sole reason assigned by Summit to support the claim of illegality is this:

"The employees have engaged in the strike since February 25, 1985, without having given a ten-day prior written notice of an intent to strike to both the employer and the State Employment Relations Board, as required by O.R.C. Sections 4117.11(B)(8) and 4117.14(D)(2). The State Employment Relations Board was not given written notice of an intent to strike until after the end of its normal business hours on February 19, 1985."

With the facts in this posture the issue to be resolved is whether the notice requirements of the statute and rules are satisfied by the actions taken by the union. There is no question whatever that the notice to the employer was sufficient. This narrows the question to whether the strike notice timely mailed to SERB but received 5 days after the postmarked date was adequate. Upon consideration it is clear that it was. The reasons are that the strike notice was mailed on the same date the employer received it; the required notice to the Board is for informational purposes only; and the notice of operative force was that to the employer. The latter was sufficient to put the management in a position to know that job action was contemplated, and when, and to take whatever defensive actions would be appropriate. This is the key purpose of the notice. And it was not impeded by the method of notifying the Board. Moreover, there is no possible demonstrable hurt to the

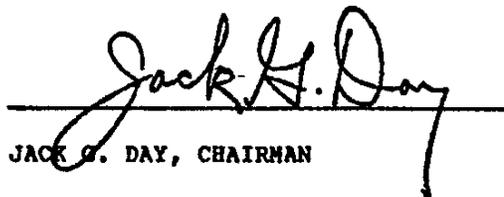
³ See R.C. 4117.14(D)(2), RC 4117.11 (B)(8) and In the Matter of South Euclid-Lyndhurst City School Board of Education vs. Ohio Association of Public School Employees, Chapter No. 110, Case No. 84-US-09-1930 (1984).

employer dependent upon the fact that the notice mailed the Board was received 5 days after the literal receipt by Summit. Obviously, there was no intent to deceive, conceal, mislead or effect a strategic maneuver.

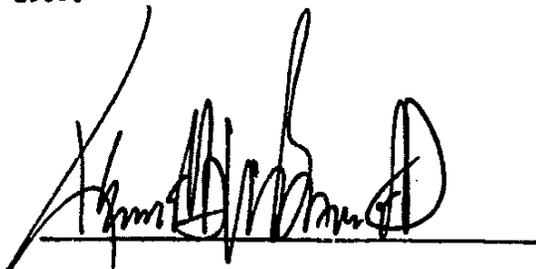
Decision in this case does not require oral argument because a careful reading of the Summit's request clearly establishes all the facts essential to decision.

The job action in this case has not been shown to be illegal. The request for a determination of illegality is denied.

Sheehan, Vice Chairman, and Fix, Member, concur.


JACK G. DAY, CHAIRMAN

I hereby certify that this document was filed and a copy served on each party on this 5th day of April, 1985.


KENNETH W. BARRETT
EXECUTIVE DIRECTOR