

85-014

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of

Public Employees of Ohio/International
Brotherhood of Teamsters

Charging Party,

v.

Summit County Board of Mental Retardation and
Developmental Disabilities, and
Ohio Council 8, American Federation
of State, County and Municipal
Employees,

Charged Parties.

CASE NUMBERS: 84-UU-09-1952 and 84-UR-09-1953

DISMISSAL OF UNFAIR LABOR PRACTICE CHARGES

Before Chairman Day, Vice Chairman Sheehan, and Board Member Fix; April 17, 1985.

The Public Employees of Ohio/International Brotherhood of Teamsters (Charging Party) filed unfair labor practice charges against the Summit County Board of Mental Retardation and Developmental Disabilities and Ohio Council 8, American Federation of State, County and Municipal Employees (Charging Parties). The charge alleges that the Charged Parties violated Ohio Revised Code Section 4117.11 by continuing to bargain when a petition had been filed by the Charging Party challenging the majority status of Ohio Council 8, American Federation of State, County and Municipal Employees, the incumbent employee organization.

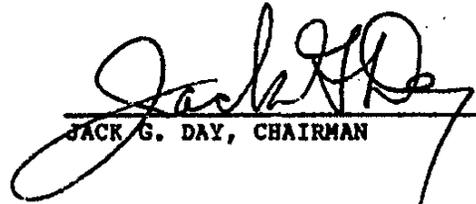
Pursuant to Ohio Revised Code Section 4117.12, the Board conducted an investigation of this charge. Based upon the investigation and for the reasons stated in the attached opinion, incorporation by reference, the charges are dismissed.

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STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD
PAGE -2-
April 17, 1985
Case Nos: 84-UU-09-1952 and 84-UR-09-1953

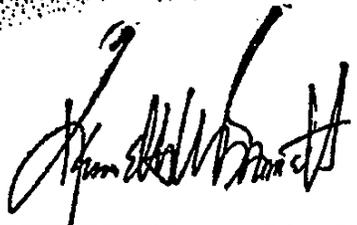
It is so directed.

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



JACK G. DAY, CHAIRMAN

I certify that this document was filed and a copy served upon each party
on this 18th day of April, 1985.



KENNETH W. BARRETT
EXECUTIVE DIRECTOR

0303g/JD:var

STATE OF OHIO

STATE EMPLOYMENT RELATIONS BOARD

Public Employees of Ohio/
International Brotherhood of Teamsters

Employee Organization,

v.

Summit County Board of Mental Retardation
and Developmental Disabilities,

Employer.

Case Nos. 84-UU-09-1952

84-UR-09-1953

(April 17, 1985)

OPINION

Day, Chairman:

The employee organization challenging the incumbent union's majority status has filed unfair labor practice charges against the employer and the incumbent union taxing them with violations of R.C. 4117.11(A)(1),(2),(3), and (5), and (B)(1) and (2), respectively. In effect this raises the question whether the employer has a good faith doubt of the incumbent's continuing majority status. A preliminary but basic issue underlying the charges is whether an unauthorized agent can posit the employer's doubt vicariously.

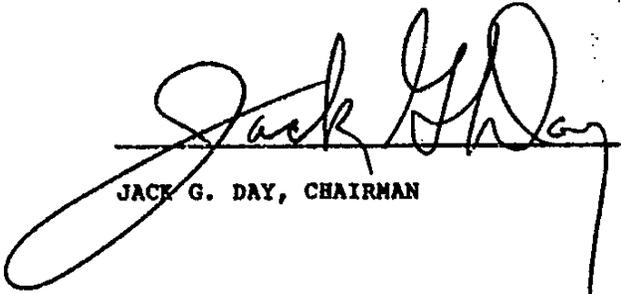
The employer has not said it has a doubt. In the absence of an admission or revelatory action (there are none here), the employer is the principal and sole witness to its state of mind. Only its authorized agents can raise the

OPINION

Page -2-

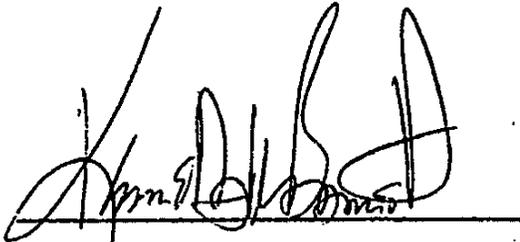
point. No one else was standing to do it.¹ Thus, the charging union is without standing and its claims must be dismissed.

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 18th day of April, 1985.



KENNETH W. BARRETT

EXECUTIVE DIRECTOR

¹cf. In re Ohio Association of Public School Employees v. Cleveland Board of Education (1985) 84-UR-05-1151, where the employer declined to bargain in the face of a petition challenging an incumbent union's majority status. The Board ruled that the petition supported the claim of good faith doubt and warranted an employer in refusing to bargain in order to preserve a neutral stance. In the present case, the employer had no obligation to bargain with the charging party. And, absent a good faith doubt, the employer's obligation is to continue to bargain with the incumbent.