

86-016

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of
Jefferson Technical College,
Employee Organization,

and

Jefferson Technical College Education Association,
yer.

CASE NUMBER: 85-MF-10-4484

DENIAL OF REQUEST FOR DETERMINATION OF UNAUTHORIZED STRIKE

Before Chairman Day, Vice Chairman Sheehan and Board Member; April 21, 1986

On April 18, 1986, at 4:07 p.m., the Employer filed with the Board a Request for Determination of Unauthorized Strike pursuant to Ohio Revised Code Section 4117.23. The Board conducted a hearing on April 21, 1986.

For the reasons stated in the attached opinion, incorporated by reference, the Board denies the Employer's request that the strike be declared unauthorized.

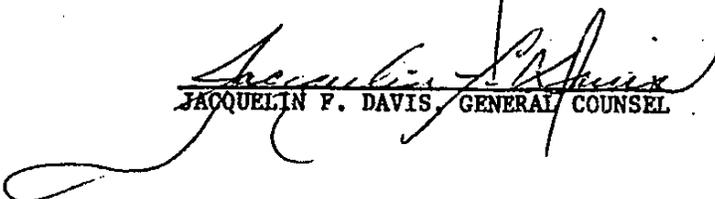
It is so directed.

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 21 day of April, 1986.



JACQUELIN F. DAVIS, GENERAL COUNSEL

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OPINION

Day, Chairman:

This is a request by the Jefferson Technical College (employer or management) to determine whether a strike by Jefferson Technical College Education Association (employee organization or union) and the employees it represents is unauthorized. It is not.

The management contends that the strike, which was noticed for Wednesday, April 16 at 12:01 a.m., actually began on Saturday, April 12, 1986 at 12:45 p.m. when several employees began picketing and leafletting. The employer maintains this activity was strike action¹ which continued until 2:30 p.m. and introduced an illicit element of uncertainty into the strike notice.

The union concedes that some picketing and leafletting took place but terminated at 2:00 p.m. However, the union contends that picketing does not

¹The employer supports its conclusion by the fall-off in attendance in two classes on Monday and Tuesday following the picketing and a telephone call from an unidentified person who wanted a schedule of cancelled classes because he did not want to cross a picket line.

fall within the definition of strike action set out in R.C. 4117.01(H) and, further, if the picketing is improper it should be tested for impropriety only in the unfair labor practice (ULP) procedure.

The parties are agreed that no classes were scheduled to begin at the time of the picketing on April 12, 1986. One class was ending as the demonstration began. It is unquestioned that no employee in the bargaining unit was scheduled to work during the picketing interval or took part in any work abstention prior to April 16, 1986.²

With the facts in this stance, three questions are presented which are relevant to the unauthorized strike issue. These are:

- 1) Did the picketing and leafletting which took place on April 12, 1986 constitute a strike within the meaning of R.C. 4117.01(H)?
- 2) If the answer to 1) is "Yes" was the action on April 12, premature and therefore illicit?
- 3) Even conceding that the April 12, 1986 picketing and leafletting did not constitute strike action, did it introduce such an element of uncertainty into the strike notice that the requirements of specificity were violated?

²Six students were working in the computer lab at various times during the picketing. Faculty could use the building on Saturdays but were not compelled to do so. The parties stipulated that ingress and egress to the premises were not obstructed, and that two picket signs were carried. One stated, "Unfair"; the other "Strike" with the word "Practicing" across it.

The definition of strike clearly incorporates abstention from work as a necessary element.³ There was no cessation of scheduled work prior to April 16, 1986. Thus there was no strike. Whether the picketing was illegal is another matter. And that must be determined under the established ULP procedures.

Having determined that the April 12, 1986 activity was not a strike, it is unnecessary to answer question 2.

The third question must be answered in the negative for two reasons. First, the leaflet distributed by the union clearly affirmed that the strike action was scheduled for "midnight, April 16". Second, there was no evidence that the action on April 12 caused management to be unprepared for the job action on the 16th of April, 1986.

The request for determination that the strike at issue was unauthorized is denied.

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

³ R.C. 4117.01:
"(H) 'Strike' means concerted action in failing to report to duty; willful absence from one's position; stoppage of work; slowdown, or abstinence in whole or in part from the full, faithful, and proper performance of the duties of employment for the purpose of inducing, influencing, or coercing a change in wages, hours, terms and other conditions of employment. Stoppage of work by employees in good faith because of dangerous or unhealthful working conditions at the place of employment which are abnormal to the place of employment shall not be deemed a strike."