

86-047 #8

STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of  
Central Ohio Transit Authority,

Employer,

and

Transport Workers Union of America, Local 208,

Employee Organization.

CASE NUMBER: 86-MED-11-1164

Determination

Before Chairman Day, Vice Chairman Sheehan, and Board Member Fix;  
November 25, 1986.

This case comes to the State Employment Relations Board (SERB) upon the Notice of Strike and Request for Determination of Unauthorized Strike filed by the Central Ohio Transit Authority (COTA) on November 24, 1986, at 10:45 a.m. SERB is required to issue its determination within 72 hours.

Upon consideration of the stipulations and proffers of both parties and arguments of counsel, SERB concludes that the strike is unauthorized.

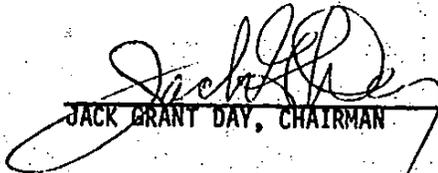
This conclusion of illegality is based upon two considerations:

- 1) No strike notice was served in writing on the employer (COTA) specifying the date and time for the job action.
- 2) Whatever agreements the parties may have reached bearing on a waiver of notice are of no effect because the strike notice implicates the public interest and cannot be waived.

An opinion has been written and is incorporated by reference.

It is so directed.

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

  
 JACK GRANT DAY, CHAIRMAN

45

DETERMINATION  
Case Number: 86-MED-11-1164 OF 0110  
NOVEMBER 25, 1986 STATE EMPLOYMENT RELATIONS

I certify that this document was filed and a copy served upon each party  
on this 25<sup>th</sup> day of November, 1986.

Employee Organization

86-MED-11-1164

*Jacquelin F. Davis*  
JACQUELIN F. DAVIS, EXECUTIVE DIRECTOR

02488:j1b

BY THE STATE EMPLOYMENT RELATIONS BOARD  
a.m. 1986

waiver of

18-15-86 attached.

STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of  
Central Ohio Transit Authority,  
Employer,  
and

Transport Workers Union of America, Local 208,  
Employee Organization.

CASE NUMBER: 86-MED-11-1164

Day, Chairman:

OPINION

A Notice of Strike and Request for Determination of Unauthorized Strike by the State Employment Relations Board (SERB) was filed in this case by the Central Ohio Transit Authority (COTA). This was in response to a work stoppage by the employees of COTA represented by the Transport Workers Union of America, Local 208 (employee organization, union, or TWUA). SERB found the strike to be unauthorized for two reasons. Because of the policy importance of the decision the reasons are amplified below.

I

"No strike notice was served in writing on the employer (COTA) specifying the date and time for the job action."

The facts in this case lend themselves to no interpretation which would satisfy statutory notice requirements as elaborated and interpreted by SERB. There was no written notice upon the employer specifying the time and date.<sup>1</sup> These flaws go to the essence of the notice. For its primary

---

<sup>1</sup>South Euclid-Lyndhurst City School District Board of Education, SERB Case No. 84-US-09-1930 (1984).

purpose is to alert the employer in order that it may take whatever measures are available to it to safeguard the public concern. Thus, an iron approach to the enforcement of notice requisites is justified, indeed compelled, in the public interest.

"Whatever agreements the parties may have reached bearing on a waiver of notice are of no effect because the strike notice implicates the public interest and cannot be waived."  
The General Assembly's attention to the strike notice requirements in the statute clearly reflect the legislative judgment that the public interest is heavily involved. And that interest cannot be effectively guarded if its protections are subject to the waiver whims of the parties.

III  
There is some suggestion in the literature and argument in this case that an unspecified consequence should flow from the union's failure to provide a notice to negotiate.  
It is unnecessary to reach this issue because the notice to negotiate has been waived by lack of timely objection and by proceeding to bargain.

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