

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

STATE-EMPLOYMENT
RELATIONS BOARD

144

In the Matter of

Fort Frye Teachers Association, OEA/NEA, ^{Nov 5 4 15 PM '87}

Employee Organization,

and

Fort Frye Local School District Board of Education,

Employer.

CASE NUMBER: 87-STK-11-0007

DETERMINATION
(Opinion attached.)

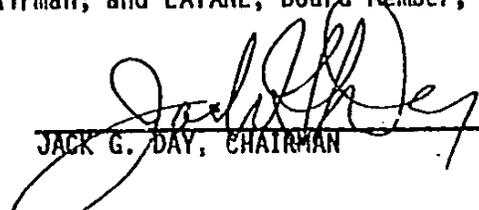
Before Chairman Day, Vice Chairman Sheehan, and Board Member Latané;
November 5, 1987.

This case comes before the State Employment Relations Board (SERB) upon the Request for Determination of Unauthorized Strike filed by the Fort Frye Local School District Board of Education (Employer) on November 2, 1987, at 4:24 p.m. SERB is required, pursuant to Ohio Revised Code (O.R.C.) §4117.23, to issue its determination within 72 hours.

Upon consideration of the stipulations, proffers, and exhibits of both parties and arguments of counsel, and for the reasons stated in the opinion attached, incorporated by reference, SERB concludes that the strike is authorized.

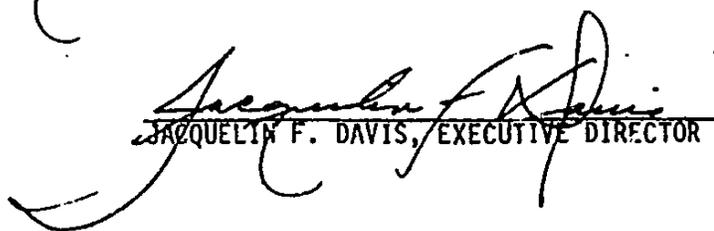
It is so directed.

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



JACK G. DAY, CHAIRMAN

I certify that this document was filed and a copy served upon each party on this 5th day of November, 1987.



JACQUELIN F. DAVIS, EXECUTIVE DIRECTOR

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OPINION

Day, Chairman:

This case involves the employer's request for the determination of an unauthorized strike. The evidential presentations were made on stipulations, exhibits and by proffers and responses from counsel. The latter were, by agreement, treated as though propounded through witnesses.

The basic facts, unimpeded by unnecessary details are these:

1. The Fort Frye Teachers Association, OEA/NEA (Union or OEA/NEA) properly noticed the Fort Frye Local School District Board of Education (Employer or Management) of an intent to strike on October 19, 1987, at 12:01 a.m.
2. The strike began as noticed at the appointed date and time and continued with routine picketing and abstention from work until November 2, 1987.

15

3. On November 2, 1987, at or about, 8:00 a.m., approximately 55 members of the bargaining unit of 73, entered either Fort Frye High School or Beverly Elementary School and departed in concert at or about 11:00 a.m. Both schools are located on a unified campus. Three other buildings are at other points in the community. All were on strike but it is not clear whether picketing was constant at each of the school sites. Some picketing apparently did occur before and after November 2, 1987, at all the locations.

4. The notice given by the union incorporated the full definition of strike in R.C. 4117.01(H).

An arctic reading of R.C. 4117.01(H) and R.C. 4117.14(D)(2) would warrant the conclusion that all the activities listed in .01(H) were legal when a notice is given and is as broad as the one in issue here. However, one obvious legislative condition in extending the right to strike to those public employees who have it was to limit the right by specific notice restrictions. The clear legislative objective was to apprise public employers of projected job actions to enable them to institute whatever damage controls were available to them.

The restrictions include a specific 10 days advance notice and, by clear implication, the date and time of the projected concerted action. While it is not equally clear that specificity is required with respect to the type of strike action a notice contemplates, to allow a broad notice incorporating all of .01(H) so enlarges the opportunities for gamesmanship that to allow it tampers with the legislative control objectives. This problem is especially acute in the public schools.

Accordingly, the tactic employed by the present Union on November 2, 1987, was inappropriate and will not be allowed with impunity in the

16

future. However, because the broad language of the statute could, until this moment, reasonably be construed as the Union did, it would be unfair to categorize the action of November 2, 1987, as unauthorized at the time it occurred. Therefore, the current strike is held to be authorized with the understanding that the same action has no authorized future.

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

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