

LOS ANGELES COUNTY
EMPLOYEE RELATIONS COMMISSION

In the Matter of

SOCIAL SERVICES UNION, LOCAL 535,
SEIU

Charging Party

v.

C. DIX, G. TODD, AND DEPARTMENT
OF PUBLIC SOCIAL SERVICES

Respondent

UFC 10.17

DECISION AND ORDER

The charge in this case was filed by Social Services Union, Local 535, SEIU, AFL-CIO (Union or Charging Party) against the Los Angeles County Department of Public Social Services (County) alleging that certain actions of the County concerning restoration of Mr. Raymond Cissna to his former position of Social Worker Supervisor were violative of Section 12 of the Employee Relations Ordinance (Ordinance). Specifically, the Charging Party alleged that Cissna was required because he was a shop steward to serve a probationary period as a condition of his restoration and that the restoration was rescinded for the exercise of his rights protected under the Ordinance.

The matter was duly referred to Hearing Officer Verlin L. McKendree, who held hearings on May 29 and June 8, 1981. The parties were present and were afforded full opportunity to offer argument and evidence and to examine and cross examine witnesses. The hearing was closed with the presentation by both parties of oral arguments. Hearing Officer McKendree submitted his Report, dated August 5, 1981. The Union filed Exceptions to the Report on August 31, 1981. The County submitted a Statement in Opposition thereto on September 10, 1981.

Hearing Officer McKendree, in recommending that the charge be dismissed, concluded that the County ". . . did not deny Raymond Cissna restoration to Social Worker Supervisor, because of and in retaliation against his exercise of his rights protected under the Ordinance."

Having carefully reviewed the Hearing Officer's Report, the underlying record, the Exceptions to the Report, and the Statement in Opposition thereto, the Commission adopts his recommendations as set forth in his Report, but not for the reasons stated therein.

While we adopt Hearing Officer McKendree's finding that Cissna was not a Union Steward and consider such a determination necessary in the proper disposition of the instant case, we do not concur with his discussion concerning the other allegations contained in the charge. The Hearing Officer's analysis presupposes that Cissna's

actions in either contacting a co-worker regarding the imposition of a probationary period, or expressing his displeasure with such a requirement to his co-workers come within the ambit of activity protected by the Ordinance.

Our review of a substantial number of decisions of the Federal Courts interpreting the provisions of the National Labor Relations Act parallel to Section 4 of the Ordinance leads us to conclude that such acts are not protected employee rights within the meaning of Section 4 of the Ordinance.^{1/} As stated in Mushroom Transportation Co. v. NLRB, 56 LRRM 2034, 2035 (3rd Cir. 1964), ". . . a conversation may constitute a concerted activity although it involves only a speaker and a listener, but to qualify as such, it must appear at the very least that it was engaged in with the object of initiating or inducing or preparing for group action or that it had some relation to group action in the interest of the employees."

Since it is our determination that the charge as filed, with the exception of the unsupported allegation pertaining to Cissna's position as a steward, does not state

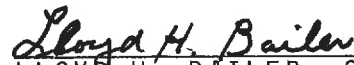
1. Ontario Knife Co. v. NLRB, 106 LRRM 2053 (2nd Cir. 1980); Krispy-Kreme Doughnut Corp. v. NLRB, 105 LRRM 3407 (4th Cir. 1980); Kohls v. NLRB, 104 LRRM 3049 (D.C. Cir. 1980); NLRB v. Buddies Supermarkets, Inc., 83 LRRM 2625 (5th Cir. 1973); Koch Supplies, Inc. v. NLRB, 107 LRRM 2108 (8th Cir. 1981), and Pelton Casteel, Inc. v. NLRB, 105 LRRM 2124 (7th Cir. 1980).

a cause of action under the Ordinance, we are compelled to conclude that the County did not violate the Ordinance in rescinding the restoration of Raymond Cissna to the position of Social Worker Supervisor.

O R D E R

IT IS HEREBY ORDERED that the charge as filed by the Union on January 16, 1981, be dismissed.

DATED at Los Angeles, California this 30th day of October, 1981.



LLOYD H. BAILER, Chairman


JOSEPH F. GENTILE, Commissioner


FREDRIC N. RICHMAN, Commissioner