

Union 820

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John A. Rosalie, Director
Region 5

Gerald Brisman
Assistant General Counsel

RELEASE

Group Health Association
Case No. 5-CA-4420 - First amended;
Union and Professional Employees International
Union, Local 72, AFL-CIO
(Group Health Association).
Case No. 5-CA-918 - First amended

FEB 11 1970

Amended charges in these cases in which advice was given by memorandum dated December 10, 1969, were submitted on the issue of whether the Employer and the Union, respectively, have violated Sections 8(a)(1), (2), and (3) and 8(b)(1)(A) and 8(b)(2) by according different probationary treatment to non-union member employees under provisions of the employee handbook from that accorded union members under the terms of the effective members-only contract. The essential difference in treatment is that under the contract provisions a probationary employee after 50 days of employment may appeal removal action through the contract's grievance-arbitration procedure while under the handbook provisions probationary employees have no right to appeal removal actions until completion of the 12-month probationary period.

It was concluded that further proceedings on the amendments to the charges are unwarranted on the facts submitted, as the evidence in the file is insufficient to show that the Employer was illegally motivated in withholding from non-member employees, employed more than 50 days but less than 12 months, a right to appeal from removal which union member employees, employed an equal period, are granted by the members-only contract, or that the Union caused the Employer to withhold that right from non-union members.

In reaching this conclusion the instant issue of probationary policy was viewed as substantially different from the issue of wage rates considered in the advice memorandum of December 10. The original issue involved the Employer's determination of wage rates and its payment to non-member employees of lower wage rates than the contract rates established for member employees. The Employer's withholding of equal wages from non-members was seen as violative of the Act on the facts there presented which showed that the withholding of equal wage rates was contrary to the Employer's declared policy of equal-pay for equal work, and that there was no evidence of financial considerations supporting that action but rather some evidence of a purpose to aid the Union. The issue now posed involves the Employer's freedom to

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control the terms of employment tenure, with no evidence that the withholding of an appeal procedure from non-member employees after 30 days of employment was contrary to the Employer's personnel policy ^V or was for the purpose of encouraging Union membership rather than for the purpose of retaining the freedom to control tenure which had not been relinquished through bargaining.

As noted in the advice memorandum of December 10, disparate treatment of member and non-member employees which arises solely from the execution and application of a members-only contract, is not considered violative of the Act. And the evidence submitted in the instant situation was not considered to support an inference that the Employer's withholding of like treatment for non-members was for the purpose of encouraging union membership.

G.B.

^V If the Region is aware of facts which suggest, to the contrary, that the Employer's policy of "equality" clearly extended to tenure matters like those here involved it should inform the Advice Branch prior to acting on this authorization.