

**National Association of Letter Carriers, AFL–CIO
(United States Postal Service) and Marvin Hill.**
Case 10–CB–4823(P)

March 29, 1991

SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN STEPHENS AND MEMBERS
CRACRAFT AND DEVANEY

On April 14, 1987, the National Labor Relations Board issued its Decision and Order in this proceeding.¹ The Board found that the Respondent violated Section 8(b)(1)(A) of the Act by refusing to honor employee Marvin Hill's resignation from the Respondent and the revocation of his dues-checkoff assignment where his checkoff assignment was in consideration of union membership.

After filing an application for enforcement of its Order with the United States Court of Appeals for the Eleventh Circuit, the Board filed a motion to remand this case for further consideration in light of an intervening decision by the United States Court of Appeals for the Ninth Circuit denying enforcement of a Board order based on a violation nearly identical to the violation found in the instant case.² On January 19, 1988, the court granted the Board's motion.

On February 16, 1988, the Board notified the parties of its decision sua sponte to reconsider its original Decision and Order and that they could file statements of position with the Board on remand. The General Counsel and the Respondent filed statements of position.

Thereafter, on remand from the Ninth Circuit, the Board issued its decision in *Postal Service (Dalton)*, 302 NLRB No. 50 (Mar. 29, 1991), in which it reconsidered the issue of the effect of an employee's resignation from union membership upon his dues-checkoff authorization under the Postal Reorganization Act (PRA). Giving the "plain meaning" to the words of section 1205(a) of the PRA, and using legislative history and prior governing authority for guidance, the Board concluded that, unlike Section 302 of the Labor Management Relations Act, the PRA requires a period of checkoff irrevocability. As the Board stated, "[t]his means that although an employee of the Postal Service may resign union membership at any time, the employee cannot at the same time effectively revoke his or her checkoff unless the checkoff revocation occurs outside the periods of irrevocability mandated by the PRA and specified by the terms of the checkoff." *Id.*, slip op. at 8. Accordingly, it is not a violation of an

employee's Section 7 rights for the Postal Service or labor organizations representing postal employees to continue to give postresignation effect to a dues-checkoff authorization if the checkoff revocation is not made within the prescribed time periods for revocation.

Applying these principles to the instant case, we reaffirm our conclusion that the Respondent violated Section 8(b)(1)(A) of the Act by refusing to give immediate effect to Hill's request to resign from the Union. See *Machinists Local 1414 (Neufeld Porsche-Audi)*, 270 NLRB 1330 (1984). We reverse, however, our previous finding that the Respondent violated the Act by refusing to honor Hill's request to revoke his dues-checkoff authorization. As the undisputed facts of this case reveal, the Respondent and the Postal Service, at all relevant times, have been parties to a collective-bargaining agreement which, in accordance with section 1205(a) of the PRA, provides for a dues-checkoff procedure whereby employees who choose to become members of the Respondent and to have their dues obligations fulfilled through the checkoff procedure, sign a checkoff authorization (Form 1187) which obligates them to remain subject to the checkoff for a full 1-year period, and for successive 1-year periods thereafter, allowing only for a 10-day open period each year prior to the anniversary date of the checkoff's execution to revoke it. Hill executed Form 1187 in November 1984 and tried to revoke it in June 1986. Under the plain meaning of section 1205(a), Hill's attempted checkoff revocation was clearly outside the permissible revocation period and therefore it was not unlawful for the Respondent to refuse to accept it. Accordingly, we dismiss this complaint allegation.

AMENDED CONCLUSIONS OF LAW

1. The United States Postal Service is subject to the jurisdiction of the National Labor Relations Board by virtue of 39 U.S.C. § 1209.
2. The Respondent is a labor organization as defined in Section 2(5) of the Act.
3. By refusing to honor employee Marvin Hill's resignation from the Union, the Respondent violated Section 8(b)(1)(A) of the Act.
4. The aforesaid unfair labor practice is an unfair labor practice affecting commerce within the meaning of Section 2(6) and (7) of the Act.

AMENDED REMEDY

Having found that the Respondent has engaged in and is engaging in the unfair labor practice described above, we shall order it to cease and desist and to take certain affirmative action necessary to effectuate the purposes of the Act.

¹ 283 NLRB 644.

² *NLRB v. Postal Service*, 827 F.2d 548 (9th Cir. 1987), denying enf. and remanding *Postal Service (Dalton)*, 279 NLRB 40 (1986). Subsequently, the United States Court of Appeals for the Sixth Circuit issued an opinion declining to enforce a Board order regarding checkoff revocation in a similar *Postal Service* case. See *NLRB v. Postal Service*, 833 F.2d 1195 (6th Cir. 1987), denying enf. of *Postal Service (Huber)*, 280 NLRB 1439 (1986).

ORDER

The Respondent, National Association of Letter Carriers, Dunwoody, Georgia, its officers, agents, and representatives, shall

1. Cease and desist from

(a) Restraining and coercing employees by refusing to permit them to resign their union membership.

(b) In any like or related manner restraining or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Post at its facility in Dunwoody, Georgia, copies of the attached notice marked "Appendix."³ Copies of the notice, on forms provided by the Regional Director for Region 10, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to members are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

³If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

(b) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

IT IS FURTHER ORDERED that the complaint is dismissed insofar as it alleges unfair labor practices not found herein.

APPENDIX

NOTICE TO MEMBERS
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT restrain and coerce employees by refusing to permit them to resign their union membership.

WE WILL NOT in any like or related manner restrain or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

NATIONAL ASSOCIATION OF LETTER
CARRIERS, AFL-CIO