

**THE PUBLIC REVIEW BOARD
INTERNATIONAL UNION, UAW**

APPEAL OF:

DANIEL W. POWELL,
Appellant

-vs-

CASE NO. 1474

UAW LOCAL UNION 670
(Jackson, Michigan)
REGION 1C
(THE UNITED AUTOMOBILE, AEROSPACE
AND AGRICULTURAL IMPLEMENT
WORKERS OF AMERICA),
Appellee.

DECISION

(Issued April 28, 2004)

PANEL SITTING: Prof. Theodore J. St. Antoine, Chairperson,
Prof. Benjamin Aaron, Prof. Janice R. Bellace,
Prof. James J. Brudney, Prof. James E. Jones,
Jr., and Prof. Paul C. Weiler.

Daniel Powell argues that his position as steward for the second shift in the Assembly Department should not have been up for election in June 2003, and that the steward election was not conducted in accordance with the Local Union Bylaws.

FACTS

Daniel Powell was elected steward for the second shift in the Assembly Department of the Edscha Company in September 2002, after the previous steward was terminated. On June 13, 2003, UAW Local Union 670 conducted its regularly scheduled steward elections on the second shift in the Assembly Department. Seven candidates ran for two steward positions, with the following results:

| | | |
|------------------|----------------|-----------|
| Michelle Winters | 7 | |
| Bob Bradstreet | 14 | (elected) |
| Ken Walling | 4 | |
| Carol Palmer | 9 | |
| Jan Miller | 1 | |
| Bob Ankney | 17 | (elected) |
| Dan Powell | 9 ¹ | |

¹ These election results are based on a hand-written vote tally provided by UAW Local 670 President, Jim Sparks, in response to Powell's appeal. (Record, p. 13)

On June 16, 2003, Powell filed a protest to the election.² He stated that he was elected for a two-year term in September 2002, pursuant to Article VIII, Section A, of the Local Union Bylaws, so that his position should not have been up for election during the June 2003 steward elections. Article VIII, Section A, of the Local 670 Bylaws states as follows:

“Election of executive officers shall be for a term of three (3) years. Bargaining committee elections will be for a term of three (3) years. One alternate bargaining committee position will be elected for a term of three (3) years, to run concurrent with the executive board, and steward elections will be for a term of two (2) years. Chief Stewards will be elected by their respective shift. Elections will be conducted in accordance with the International Constitution (Article 38, Section 2) and guided by the Guide for Local Union Elections.”³

Powell also claimed that the steward election of June 13, 2003, was not conducted in accordance with the Article VIII, Section C, of the Local Union Bylaws, which states:

“It shall be the duty of the Chief Steward to conduct all department steward elections. Election to fill a steward vacancy shall take place as soon as possible.”⁴

On the day of the steward election at Local 670, the Chief Steward, Dan Nichols, was absent. Powell asserted that the election should therefore have been postponed. Instead, the newly elected Chief Steward, Brad Clevenger, conducted the election with the assistance of the Local Union President. Powell argued that Chief Steward Clevenger had not yet been sworn in so that he should not have been permitted to conduct the steward election on June 13, 2003. Powell stated that the Local Union President should not have been involved in the conduct of departmental steward elections at all.

Powell’s protest was presented to the membership on September 17, 2003. On September 23, President Sparks advised Powell that the membership had voted to accept the Election Committee’s recommendation not to take his protest any further.⁵

Powell appealed the membership’s decision to the International Executive Board on September 26.⁶ In support of his appeal, he argued that no one had ever mentioned that his election in September 2002 was only to fill a vacancy. He pointed out that

² Record, p. 8.

³ Record, p. 3.

⁴ Record, p. 3.

⁵ Record, p. 9.

⁶ Record, p. 10.

nothing in the Local 670 Bylaws covers filling a vacancy in the office of departmental steward.

Presidential Administrative Assistant Gary Bryner conducted a hearing on Powell's appeal for the International President's office on December 5, 2003, and prepared a report based on the hearing for the International Executive Board (IEB). Bryner stated that an election to fill a vacancy is only to complete the unexpired term of the office vacated. He found nothing improper in the newly elected Chief Steward conducting the steward elections with the assistance of the Local Union President. Bryner denied Powell's appeal and his report was adopted by the IEB as its decision.⁷ Powell was notified of the IEB's decision on January 8, 2004, and he appealed to the Public Review Board on January 15.

ARGUMENT

A. Daniel W. Powell:

The Local Union President admitted during the hearing conducted on behalf of the International President that votes cast in the steward election were put into a "hat" rather than an official sealed ballot box as required by the Labor-Management Reporting and Disclosure Act ("LMRDA") as well as Article 38, Section 10(g), of the UAW Constitution. The President also admitted that no check-off list was used to ensure that no one was permitted to vote twice. The hearing officer refused to allow the Local Recording Secretary to record the minutes of the hearing on my appeal, so there is no record of this testimony.

It is still my contention that I was elected for a two-year term as Assembly Department Steward in September 2002. There is nothing in the Local Union Bylaws or the International Constitution which states that elections to fill vacancies are only for the unexpired term. Furthermore, it was never posted or stated to me that this was a temporary position.

The nominations for departmental union stewards were conducted by the President and the Financial Secretary and the ballots were tallied by the Election Committee. This violated the Local Union Bylaws, which state that departmental steward elections are to be conducted by the Chief Steward in the department. I also believe that the steward election should have been postponed until the official Chief Steward, Dan Nichols, returned from the one-day vacation he was taking.

I believe that I should be returned to my job as steward to complete the remainder of my term of office, and that all of the elections held on the second shift on June 13, 2003, should be rerun.

⁷ Record, pp. 17-18.

B. International Union, UAW:

Powell was originally elected to complete the remainder of an unexpired term that lasted until June 2003. No matter how many times a local union might experience a vacancy and conduct an election to fill it, the election is only to complete the unexpired term.

Local Union elections are presumed to be valid. *Trick v. Local Union 212*, 6 PRB 103 (1990). The fact that the new Chief Steward and the Local Union President ran the election does not overcome the presumption that the election was valid. There is absolutely no evidence suggesting that Chief Steward Clevenger's participation in the departmental steward elections affected the election's outcome, or that the election was not fair and democratic as required by Article 45, Section 2 of the International Constitution.

C. Rebuttal, by Daniel Powell:

The President's hearing officer acknowledged that there were serious procedural problems with the June 2003 steward election, yet he upheld it. The hearing officer criticized President Sparks for saying that the ballots were thrown into a "hat." After President Sparks admitted that no check-off system was used during the election, Bryner asked him how he could be certain that no member voted twice. Sparks replied, "I just know that no one voted more than one time."

If the Public Review Board members will carefully review Article VIII, Section A, and Article XVI, Section A, of the Local Union 670 Bylaws, they will find no language limiting the term of stewards elected to fill vacancies. The Bylaws state that the term of office for departmental stewards will be two years.

DISCUSSION

We have denied the appellant's request for oral argument because there are no significant issues raised by his appeal. According to Powell, the Local Union President acknowledged at the hearing conducted on behalf of the International President that no check-off list was used and that the ballots cast in the June 2003, departmental steward election were not kept in a sealed ballot box.⁸ Powell argues that this violated Article 38 Section 2, of the International Constitution as well as the LMRDA. However, the election procedures described in Article 38, Section 2, of the International Constitution and in Title IV of LMRDA apply only to the election of local union executive officers. The election of stewards and committeepersons is governed by Article 45, Section 2, of the Constitution, which requires only that the elections be conducted democratically.⁹

The record does not support a conclusion that the steward election was undemocratic. Although no check-off list was maintained, the vote tally sheets indicate

⁸ Record, p. 33.

⁹ Constitution, UAW, Article 45, Section 2.

that only 61 members voted in the second shift steward election. The President's statement that he knew that no one from among this relatively small number of members voted twice is, therefore, credible. Powell has not asserted that he is aware of anyone having voted twice, or that there was any problem with the security of the ballot box. As the International Union has stated, local elections are presumed to be valid. The results of an election will not be disturbed in the absence of clear and convincing evidence that some improper practice occurred to such a degree that the outcome of the election was affected. *Trick v. Local Union 212*, cited previously.

Powell complains that it was a violation of the Local's Bylaws for the newly elected Chief Steward and the Local Union President to conduct the steward election. If this was a violation of the Bylaws, however, Powell has not shown how it could have affected the outcome of the election in which he was a candidate. Powell has not alleged that Chief Steward Clevenger or President Sparks acted improperly in any way. Once again, this claim is insufficient to overcome the presumption that the results of the election are valid.

An election conducted to fill a vacancy in an office is generally understood to be for the unexpired term of that office. This is so that terms of office will continue to run concurrently. If a new term of office began to run every time a local union had to fill a vacancy, the local would eventually be put to the task of conducting numerous elections during the year as the different terms of office expired. There is nothing in the Local 670 Bylaws to support Powell's contention that he was elected for a two-year term despite the fact that he ran to fill a vacancy created by the termination of the previous steward. The Bylaws simply state that the steward's term of office will be two years. The two year term that Powell was elected to fill expired in June 2003, and the steward position was therefore properly up for election at that time.

The decision of the International Executive Board is affirmed.