

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

APPEAL OF:

CARL GENIAC,  
Appellant,

-vs-

CASE NO. 1491

LOCAL UNION 12, UAW  
(Toledo, Ohio)  
(THE UNITED AUTOMOBILE, AEROSPACE  
AND AGRICULTURAL IMPLEMENT  
WORKERS OF AMERICA),  
Appellee.

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**DECISION**

(Issued January 14, 2005)

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

At issue in this appeal is whether the withdrawal of Carl Geniac's five grievances concerning the assignment of work at DaimlerChrysler's Toledo Assembly Plant lacked a rational basis.

**FACTS**

In 2000, DaimlerChrysler Corporation began the operation of a new Energy Center at the North Toledo Assembly Plant. The new Energy Center will replace the Powerhouse located at the older South Toledo Assembly plant on Jeep Parkway. Prior to opening the new Energy Center, DaimlerChrysler notified UAW Local Union 12 that it intended to cease production of vehicles at the older plant in 2006, and to close the plant in 2008.

On November 11, 1999, UAW Local 12 filed Grievance 9258 on behalf of ten Stationary Engineers protesting Management's decision to assign work historically done

by Stationary Engineers to Millwrights and Electricians at the new plant. The grievance indicates that it was put on hold on January 5, 2000.<sup>1</sup>

On May 2, 2001, Representative Jerry Brown from the UAW Skilled Trades Department toured the new Energy Center with Region 2B Representative Dan Twiss and concluded that Powerhouse Mechanics and Stationary Engineers should monitor and maintain the equipment at the new Energy Center. In a memo to Twiss after the tour, Brown wrote:

“The Energy Center is what we have historically called a powerhouse. It is apparent that the work in this powerhouse is identical to that of other powerhouses. In our review, the “PM” work is the same as that of the old powerhouse (Toledo South). The new powerhouse is very modern, clean, and efficient, but it is still a powerhouse. Therefore, the work of maintaining and repairing the Energy Center is the work of the Powerhouse Mechanic.

Additionally, the operation, performance checks and monitoring should be properly performed by a Stationary Engineer.”<sup>2</sup>

UAW Local 12 Jeep Unit Chairperson Nick Vuich confirmed this position in a letter to DaimlerChrysler Human Resources Manager Thomas Maxon on October 25, 2001.<sup>3</sup>

The issue remained unresolved, however, and Grievance 9258 became a subject of contract negotiations between the UAW and DaimlerChrysler in 2002. At the conclusion of negotiations, the parties agreed that the issue should be resolved by the UAW DaimlerChrysler Skilled Trades Department and Management. Accordingly, Assistant Director Leon Klea of the DaimlerChrysler Department and DaimlerChrysler Corporation Wage and Salary Administrator Jack Stadtmiller reviewed the new facility on September 11, 2002, and determined that Powerhouse Mechanics would maintain the Energy Center. Assistant Director Klea communicated this determination to International Representative Twiss on October 22, 2002. He wrote:

“It is our joint conclusion that personnel performing the mechanical work maintaining and repairing equipment in the Energy Center and assigned to this facility on a regular basis, should be classified 5708 Repairman Powerhouse (Powerhouse Mechanic) and not 5948 Stationary Engineer-Licensed-Shift (Stationary Engineer). The reason for this

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<sup>1</sup> Record, p. 1.

<sup>2</sup> Record, p. 3.

<sup>3</sup> Record, p. 5.

determination is that the equipment currently installed in the Energy Center, specifically the hot water generators, does not require the skills and license levels of a Stationary Engineer. Required electrical repair should, as before, be performed by electricians.”<sup>4</sup>

Grievance 9258 indicates that it was settled during 2002 negotiations. Local 12 Skilled Trades Committeeperson Jim Buck advised the Stationary Engineers of the resolution of Grievance 9258 on December 6, 2002. On December 30, 2002, Stationary Engineer Kevin Fox filed an appeal from the settlement of the grievance on behalf of the ten affected Stationary Engineers, including the appellant, Carl E. Geniac.<sup>5</sup>

On February 15, 2003, while Fox’s appeal was pending, Geniac filed five additional grievances concerning the operation of the new Energy Center. In the first grievance, Geniac charged that it was unsafe for Management to have only one employee operating the Energy Center and that it should be staffed with a Stationary Steam Engineer and a Repairman.<sup>6</sup> In the second grievance, he argued that Stationary Engineers have historically performed testing of water at the Powerhouse, and that they should be performing this function at the new Energy Center. Instead, Geniac charged, the Company outsourced this work to Nalco Chemical Company. Geniac demanded that the Company put four Stationary Engineers at the Energy Center to operate equipment and do water testing.<sup>7</sup> In the third grievance, Geniac argued that the positions in the New Energy Center should have been put up for bids in accordance with past practice.<sup>8</sup> The fourth grievance asserted that DaimlerChrysler was discriminating against a handicapped employee by eliminating his job classification.<sup>9</sup> Finally, Geniac challenged the determination of the DaimlerChrysler Department regarding the assignment of work at the Energy Center. He wrote:

“I challenge the ruling for staffing of [the] new Energy Center through our Union and the International Union and request this be re-evaluated, as in all Chrysler Plants operators run the compressors and related equipment, not Repairmen and Millwrights and Electricians. Also per job description of [the] position, Stationary Steam engineers should be operating all the Energy Center equipment etc. Also for safety you should have one Stationary Steam Engineer and a Repairman for each shift at Energy Center.”<sup>10</sup>

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<sup>4</sup> Record, p. 7.

<sup>5</sup> Record, pp. 9-11.

<sup>6</sup> Record, p. 30.

<sup>7</sup> Record, p. 31.

<sup>8</sup> Record, p. 32.

<sup>9</sup> Record, p. 33.

<sup>10</sup> Record, p. 34.

All five of Geniac's grievances indicate that they were settled on March 3, 2003, by Local Skilled Trades Committeeperson James Buck on the basis that they would be sent to the International Union for Review. Geniac appealed the withdrawal of his grievances to the International Executive Board (IEB) on March 10, 2003. He asked the IEB to investigate the issues raised by his grievances.<sup>11</sup>

Toffie Abbasse and Jack Campbell, acting on behalf of the International President, conducted a hearing on January 21, 2004, on the appeals filed by Fox and Geniac. The hearing officers prepared a report for the IEB based on the materials submitted by the DaimlerChrysler Department, Local Union 12, and the testimony of witnesses at the hearing.

They wrote that Geniac submitted a copy of the job description of the Stationary Engineer classification from the UAW Job Guidelines for Skilled Trades to support his argument that the work in question belonged to the Stationary Engineer classification. Geniac testified that all of the Stationary Engineers at the Toledo Assembly plant were given a correspondence course to learn to perform water tests on the new energy systems, but that this work was now being sub-contracted to an outside vendor. Geniac further stated that when the National Skilled Trades Department representatives came to tour the new Energy Center, the Powerhouse Mechanics were allowed to tour with the International Union representatives, but that the Stationary Engineers were not included in the tour.<sup>12</sup>

The hearing officers' report indicates that Kevin Fox disputed the reasons given for the work assignment in Assistant Director Klea's letter to Representative Twiss on October 22, 2002. According to the report, Fox argued that the fact that Stationary Engineers are licensed should have had no bearing on the work assignment. He declared that the assignment of the work ought to have been based on the fact that the daily operation and maintenance of all equipment, including hot water generators, has always been the work of Stationary Engineers, and that such work is still being performed by Stationary Engineers at DaimlerChrysler's other energy centers.<sup>13</sup>

The hearing officers wrote that Chairperson Vuich and Committeeperson Buck both confirmed that the work in question had historically been done by Stationary Engineers. Vuich testified that he did not know how Assistant Director Klea came to his conclusion that the work should be assigned to the Powerhouse Mechanic classification, because the Local Union had always maintained that the work belonged to the Stationary Engineer classification.<sup>14</sup>

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<sup>11</sup> Record, pp. 37-39.

<sup>12</sup> Record, p. 44.

<sup>13</sup> Record, p. 46.

<sup>14</sup> Record, p. 46.

According to the report, International Representative Twiss explained that it was originally the Company's intention that the new Energy Center would be unmanned. After several conversations with Union representatives, the Company conceded that this would not work, but then they proposed to place Millwrights and Electricians at the Center. According to Twiss, it had always been the position of the Union that the work belonged to the Stationary Engineer and Powerhouse Mechanic classifications. At the conclusion of the 2002 negotiations, Twiss stated that he had to request that a representative from the International Skilled Trades Department come to the plant and resolve the issue. Accordingly, Assistant Director Klea toured the plant with DaimlerChrysler Administrator Stadtmiller and they determined how the work should be assigned.

The hearing officers' report indicates that Assistant Director Klea gave the following reasons for not assigning the work to the Stationary Engineer classification:

- “1. No license is needed;
2. It is not high pressure steam; and
3. Major mechanical work is performed by Powerhouse Mechanics and not by Stationary Engineers.”<sup>15</sup>

The hearing officers reported that Klea went on to say that equipment at the Energy Center is now monitored by computer. He is also reported to have testified that Waste Water Treatment Operators are responsible for operating the Waste Water Treatment Center in the DaimlerChrysler system, rather than Stationary Engineers. Klea acknowledged that two Powerhouse Mechanics accompanied him on his tour of the Center, and he stated that he did not know why Stationary Engineers were not included on the tour.

The hearing officers remarked that prior to the beginning of operations at the new Energy Center at the North Toledo Assembly Plant, the Stationary Engineer classification and the Powerhouse Mechanic classification shared the work involved in operating the Company's powerhouses as specified in the UAW Skilled Trades Guidelines. Furthermore, the hearing officers wrote:

“It has always been the position of the UAW International Union that new technology may be inevitable. However, whoever performed the work manually in the past should continue to perform the work required by the new technology.”<sup>16</sup>

Nevertheless, the hearing officers concluded that the determination made by the DaimlerChrysler Department is controlling unless it was devoid of a rational basis, or motivated by fraud or collusion with management. The hearing officers held that the

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<sup>15</sup> Record, p. 48.

<sup>16</sup> Record, p. 48.

reasons Klea asserted for making his decision were not devoid of a rational basis, nor did the record contain any evidence of fraud or collusion.<sup>17</sup> Based on these findings, the hearing officers denied Fox's and Geniac's appeals.

The IEB adopted the report of the hearing officers as its decision and the parties were notified on August 27, 2004. Carl Geniac appealed the IEB's decision to the Public Review Board (PRB) on August 30, 2004. Fox did not appeal.

## ARGUMENT

### **A. Carl Geniac:**

I wish to appeal the assignment of the jobs at the new Energy Center to the Powerhouse Mechanic classification, as well as the issues of job safety, outsourcing and lines of demarcation that were raised in my grievances. The IEB did not address the issues I raised, but only declared that the decision of Assistant Director Klea was correct.

Klea's determination was not re-evaluated with a Stationary Engineer present at the job site to represent that classification on the tour of the site. A Stationary Engineer could have pointed out the safety issues involved. The outsourcing issued was ignored by the IEB. Jobs were assigned on the basis of nepotism and friendship, rather than what is right.

The Company has tried to fire me several times and I believe that this elimination of my job is perceived as a fast way to get rid of me. I am asking that my grievances be reinstated.

### **B. International Union, UAW:**

Appellant Geniac's grievances claim that the Company's failure to staff the Energy Center with Stationary Engineers is unsafe, that Stationary Engineers should have performed a part of the Energy Center work that was outsourced, and that he was discriminated against on the basis of his handicap. Each of these claims is mooted by the determination of the UAW DaimlerChrysler Department that the work at the Energy Center was properly assigned, and that the work is not appropriate for the Stationary Engineer classification. Furthermore, Geniac did not offer any support for his claim that he was discriminated against because of a handicap.

A difference of opinion existed regarding whether the new technology at the North Toledo Energy Center made operation and maintenance of the Center more appropriate for Stationary Engineers or some other classification. The parties agreed that the issue should be resolved based on a joint review by Management and the DaimlerChrysler Department. Assistant Director Leon Klea of the DaimlerChrysler

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<sup>17</sup> Record, p. 50.

Skilled Trades Department toured the plant and examined the operation of the Energy Center and determined that the operation of the new Toledo North Energy Center was substantially different than the operation of the old Toledo South Powerhouse, and that the work involved did not, therefore, belong to the Stationary Engineer classification.

Geniac has not identified any discrimination, fraud, or collusion with Management on the part of the Union. The Union acted entirely within the range of its reasonable discretion when it concluded that it would not be able to convince an arbitrator that the assignment of work at the new Energy Center violated the contract, particularly in light of the agreement reached during the 2002 contract negotiations to resolve the dispute in the manner described. Therefore the decision of the IEB should be affirmed.

### **C. Rebuttal by Carl Geniac:**

I am a disabled veteran and a handicapped person, and I have had to fight for my right to work. DaimlerChrysler Human Resources Manager Maxon decided that I was medically unable to do my job, and he tried to force me to take a permanent disability layoff. In that case, the doctor said that I could do the job. The Company then tried to have me fired because they said my handwriting was not neat enough. My Union did not represent me in that case. I went to the Department of Labor and won both cases. Since DaimlerChrysler could not fire me, now they are trying to get rid of me by eliminating my job. When the old Powerhouse closes in 2006, they will have no job for me and I will be eliminated like they wanted. That is discrimination and they know it.

The work in contention has always been the work of Stationary Engineers. The Stationary Engineers at the old South Toledo Powerhouse, and not the Powerhouse Mechanics, were sent through a correspondence course specifically to learn how to operate the equipment being installed in the new Energy Center. Kevin Fox has documents proving that these are our jobs, and showing how favoritism and nepotism influenced the Company's assignment of this work. On one particular instance, Marty Nusbaum, a Millwright, was allowed to bid on one of the Powerhouse Mechanic jobs in the new Energy Center even though he had been out of the classification for two years. He is a cousin of a member of Management. Yet, Stationary Engineers were not permitted to bid for these jobs, although they are better qualified to do them. This is not right.

When Mr. Klea was taken through the new Energy Center, Mr. Nusbaum was allowed to accompany him, and no Stationary Engineer was allowed to come and explain the operation. This is pure discrimination. Kevin Fox should have been included in Klea's tour of the new center. Mr. Klea did not listen to both sides of this dispute, and basically allowed the Company to dictate the rules, rather than fighting to save our jobs. Furthermore, as I pointed out in one of my grievances, the Company's plan to have one person stationed in this building away from the plant all alone for eight hours is unsafe. If he had a heart attack, he would be dead before anyone found him, or if he were injured, he could bleed to death.

All of the Local representatives agreed that this work belongs to the Stationary Engineers. There are letters in the record from Skilled Trades Committeeperson Jim Buck as well as Skilled Trades Representative Jerry Brown and Chairperson Nick Vuich. Stationary Engineers still do this work in all of DaimlerChrysler's other plants.

I believe that Mr. Klea should be contacted and Kevin Fox's material should be consulted so this matter can be corrected, because the decision made here was not correct.

### DISCUSSION

Our task in considering collective bargaining grievances is to determine whether the handling of the grievance in question was affected by fraud, discrimination or collusion with management or whether its disposition was devoid of any rational basis. Unless we find such to have been the case, we are required to dismiss the appeal.<sup>18</sup>

It is clear from this record that representatives from both the International and the Local Union fought vigorously for the position now urged by appellant Geniac that the operation and monitoring of equipment at DaimlerChrysler Corporation's new Energy Center should be assigned to the Stationary Engineer classification. The record also makes evident the fact that Management was determined to eliminate the Stationary Engineer classification at the new Energy Center, and to reduce drastically the manpower employed to operate the new facility. International Representative Twiss testified at the hearing conducted on behalf of the International President that the Union was unable to reach an agreement on this work assignment dispute after numerous meetings with Management during contract negotiations in 2002, so that the parties eventually agreed to abide by a decision based on an evaluation of the facility by the UAW DaimlerChrysler Department and a member of Management. During the process of that evaluation, Management persuaded Assistant Director Klea that the work ought to be assigned to Powerhouse Mechanics rather than Stationary Engineers.

Appellant argues that Assistant Director Klea did not consider both sides of the argument on the work assignment dispute, and that he failed to include a representative of the Stationary Engineers on his tour of the new Energy Center. The record reveals, however, that by the time Klea reached his decision, the work assignment dispute had been the subject of intense scrutiny for a period of several years, and that the

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<sup>18</sup> Article 33, §4(i), of the UAW Constitution provides:

**"GRIEVANCE AND RELATED APPEALS.**

In any appeal to the Public Review Board, under §3(f) of this Article, concerning the handling of a grievance or other issue involving a collective bargaining agreement, the Public Review Board shall not have jurisdiction unless the appellant has alleged before the International Executive Board that the matter was improperly handled because of fraud, discrimination or collusion with management, or that the disposition or handling of the matter was devoid of any rational basis."

arguments on behalf of assigning the work to the Stationary Engineers had been clearly explained by the Local and International Union Representatives.

We can understand appellant's frustration that this issue has now been resolved in a manner which will result in the elimination of his job. Nevertheless, there is nothing in the record to support his contention that the decisions made in regard to the assignment of work at the new Energy Center were specifically aimed at the elimination of his particular position, or to provide positions for friends and relatives of Management. Klea explained that he based his decision on an analysis of the tasks performed by the personnel maintaining and repairing the equipment in the Energy Center, and the skill level required for those tasks. He concluded that the new Energy Center differed sufficiently from a traditional Powerhouse that the Union could not insist that the work be assigned to Stationary Engineers, over Management's adamant objection, based solely on the historic operation of Powerhouses.

As indicated by the International Union, Klea's decision disposed of the job safety, outsourcing, and lines of demarcation issues raised by Geniac's grievances. There is no evidence in the record to support a conclusion that discrimination or collusion with management influenced Klea's resolution of this complex issue, and the decision made was not irrational. The Constitution, therefore, precludes us from any further review of the decisions made by the Union in connection with the work assignment dispute at the new Energy Center.

The decision of the IEB is affirmed.