

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

APPEAL OF:

LAGINA HALL, Member,
UAW LOCAL UNION 7
(Detroit, Michigan), REGION 1,

Appellant,

-vs-

CASE NO. 1817

UAW INTERNATIONAL UNION
(THE UNITED AUTOMOBILE,
AEROSPACE AND AGRICULTURAL
IMPLEMENT WORKERS OF AMERICA),

Appellee.

DECISION

(Issued July 13, 2020)

PANEL SITTING: Prof. James J. Brudney, Chairperson,
Prof. Janice R. Bellace, Prof. Harry C. Katz, and Prof.
Maria L. Ontiveros.

The PRB addresses whether LaGina Hall's appeal of the withdrawal of her termination grievance was properly rejected as untimely.

FACTS

LaGina Hall worked for FCA US LLC ("the Company") at the Jefferson North Assembly Plant (JNAP). On June 28, 2016, Hall's supervisor discharged her for violation of Standards of Conduct #5 (failure to exert normal effort) and #9 (inferior work/poor quality workmanship).¹ The supervisor alleged that Hall was not signed into her work terminal for over two hours.² According to Hall, she became ill while working and was

¹ Record, p. 1.

² Record, p. 1.

instructed by her line supervisor to log out of the computer at her workstation.³ Hall concedes that prior to her termination she had amassed a disciplinary record.⁴

The Union filed grievance No. 16-0384 challenging Hall's termination. At the Appeal Board level, International Representative Mark Taylor decided to withdraw the grievance on January 26, 2017.⁵ On January 31, 2017, Taylor sent a letter to Hall by certified mail, advising her of the grievance withdrawal. Taylor stated in the letter: "I made the decision not to arbitrate this grievance because the grievance lacked merit because the investigation showed that the Company had just cause to issue the discipline."⁶ The Record does not contain any documentation reflecting whether the postal service successfully delivered the certified letter or not.

On July 24, 2019, Hall sent a letter to the International President's office regarding the incident leading to her termination on June 28, 2016.⁷ She asked that "you guys find it in your hearts that I be considered to be re-hired with the company once again."⁸

On July 31, 2019, Administrative Assistant to the President, Darryl Nolen, wrote to Hall requesting additional information regarding the settlement of her grievance and how she was notified of the settlement.⁹ On October 31, 2019, the International President's office received a response from Hall which recounted her version of the events on June 28, 2016 leading to her discharge, but she did not provide information regarding the settlement of her grievance.¹⁰

On November 6, 2019, Nolen sent another letter, again requesting information regarding the settlement of Hall's grievance.¹¹ In her response dated November 8, 2019, Hall explained:

"I was notified by phone about the settled grievance. I was told a certified letter was sent to my address that I never received so Mark Taylor and I spoke over the phone. He told me I had 30 days to appeal but I never received the letter to do so."¹²

Hall's response also states that her grievance was settled on "January 31, 2019."¹³ It is unclear from the Record whether "2019" is a typographical error or whether Hall believes that her grievance was withdrawn in that year as opposed to 2017.

³ Record, p. 5.

⁴ Record, p. 5. The Record does not provide a seniority date for Hall.

⁵ Record, p. 3.

⁶ Record, p. 4.

⁷ Record, pp. 5-6.

⁸ Record, p. 5.

⁹ Record, pp. 7-8.

¹⁰ Record, pp. 9-10.

¹¹ Record, pp. 11-12.

¹² Record, p. 13.

¹³ Record, p. 13.

On December 4, 2019, Administrative Assistant to the President, Reggie Ransom, sent a letter to Hall advising that the International President's office had determined that her appeal was untimely and would not be considered.¹⁴ Hall appealed the timeliness determination to the International Executive Board (IEB) by letter dated December 13, 2019. She asserted:

"I want to appeal [the determination of untimeliness] because I never officially received my withdrawal letter through the postal service. I couldn't appeal the decision if I never received my letter to do so. Mark Taylor told me I had to appeal the withdrawal once the letter came through the mail. The letter never came."¹⁵

The IEB issued its decision on January 29, 2020, adopting the report prepared by the International President's staff.¹⁶ Staff determined that a hearing on the appeal was unnecessary.¹⁷ Even accepting Hall's assertion that she did not receive the certified letter from Taylor, staff concluded that this did not excuse compliance with the time limits in Article 33, §4(c) of the UAW International Constitution.¹⁸ Staff pointed out that the "language in the [C]onstitution does not require an Appellant to be informed via email, postal mail or any other written notification."¹⁹ Although she denied receiving the letter, Hall admitted that Taylor informed her that the grievance had been withdrawn and this triggered the 30-day deadline for an appeal.²⁰

Hall filed a timely appeal of the IEB decision with the Public Review Board (PRB).²¹

ARGUMENT

A. LaGina Hall:

I disagree with the IEB's decision. I am appealing due to the lack of information provided to me through my Union. I was given false information and instructions as to how I should proceed with the appeal process. I was told by my Committeeperson at the time that the Company offered to give me my job back. I was then told that the Company took back its offer. I believe that the Union failed to represent me properly and to the full extent of its capabilities.

B. International Union, UAW:

The time limits for internal appeals are clear and unambiguous under Article 33, §4(c) of the International Constitution. In this case, Appellant was appealing a decision

¹⁴ Record, p. 18.

¹⁵ Record, p. 19.

¹⁶ Record, p. 21.

¹⁷ Record, p. 22.

¹⁸ Record, p. 25.

¹⁹ Record, p. 25.

²⁰ Record, pp. 25-26.

²¹ Record, p. 38.

by an International Representative to withdraw a grievance challenging her termination. Under Article 33, §2(a), “[w]here the challenge is against an international Representative . . . the levels of appeal are first to the International Executive Board.” Therefore, Appellant -- as instructed by Representative Taylor -- had 30 days to file her initial appeal.

The Constitution further expressly states that time limits “begin to run from the time the appellant first becomes aware, or reasonably should have become aware, of the alleged action or decision appealed.” There is no dispute that Appellant was aware that the grievance at issue was withdrawn on or around January 31, 2017. She did not file an appeal until July of 2019. The appeal under any possible interpretation was more than two years late. Appellant also incorrectly stated in response to the information request from the President’s office that her grievance was settled on January 31, 2019 instead of 2017. Even that date, however, is more than 30 days before her appeal was actually filed.

As the IEB explained, the PRB has consistently enforced the deadlines for appeal contained in the Constitution and required members to apprise themselves of those requirements.

“As the PRB has observed in the past, ‘[a] claim of ignorance of the requirements of the Constitution is not a satisfactory excuse for a failure to abide by its requirements.’ *Phillips v. UAW National Ford Department*, 12 PRB 120, 122 (2002). Instead, appellants have a ‘responsibility to learn [the Constitutional appeal] requirements and follow them.’ *Flores, et al. v. International Executive Board*, 13 PRB 465, 470 (2007).”

Sobh v. UAW International Union, PRB Case No. 1808, at p. 7 (Nov. 18, 2019). In *Sobh*, the PRB affirmed the IEB’s finding that the appeal was untimely where the appellant claimed the Local President did not respond to his requests for help with his appeal. The Board held that this “failure to respond immediately cannot be relied upon to absolve Sobh” of his responsibility to follow the Constitutional requirements. *Id.* Here, Appellant’s only explanation is that she did not receive a letter. This is insufficient, and her appeal must be rejected as untimely.

DISCUSSION

The UAW International Constitution establishes the time limits for filing an appeal. Article 33, §4(c) provides:

“(c) *TIME LIMITS FOR APPEAL*. To be considered, an appeal must comply with these time limits, if no other time limit is specifically set forth in this Constitution: Appeal to Local Union sixty (60) days; Amalgamated Local Union Appeal to unit, sixty (60) days, appeal from unit to Amalgamated Local Union itself, thirty (30) days; appeal to other subordinate body sixty (60) days; appeal to International Executive Board appellate or original

cases, thirty (30) days; appeal to Convention Appeals Committee thirty (30) days; appeal to Public Review Board thirty (30) days.”

This case involves an appeal from International Representative Taylor’s decision to withdraw Hall’s termination grievance. Accordingly, the applicable time limit under Article 33, §4(c) is 30 days. The Constitution also specifies when the time limits begin to run. Article 33, §4(b) states:

“(b) *CALCULATION OF TIME*. The time limits of Section 4(c) of this Article begin to run from the time the appellant first becomes aware, or reasonably should have become aware, of the alleged action or decision appealed. In the case of an appeal from a decision of the International Executive Board, the time limit shall begin to run when the appellant first receives notice of the decision. For purposes of this Article, “day” means a calendar day. If mailed, an appeal will be considered filed on the date it is postmarked.”

Union members have a responsibility to abide by the Constitution’s time limits for filing an appeal.

In this case, there is no dispute that Representative Taylor advised Hall in a phone conversation that he had withdrawn her grievance. Hall also indicates that Taylor informed her that she had 30 days in which to appeal his decision. Nevertheless, Hall did not file an appeal within 30 days of becoming aware that her grievance was withdrawn as required under the Constitution.

Hall seeks to excuse her failure to initiate an appeal within the Constitutional time limit by arguing that she was waiting for formal notice to arrive by certified mail, which she claims never occurred. Under the circumstances, the Board agrees with the IEB that Hall has offered insufficient justification for her delay. Hall does not claim that her oral communication with Taylor resulted in any uncertainty regarding the disposition of her grievance, such that she needed to wait for written notification. In other words, there is no dispute that Hall was aware of the decision which she seeks to appeal as a result of the phone call with Taylor.²²

In addition, Hall’s attempt to justify her delay is undermined by the substantial lapse of time before she decided to proceed without having received notice by certified mail. Hall did not pursue an appeal for two and a half years following the withdrawal of her

²² The PRB’s decision in *Claus v. UAW Agricultural Implement Department*, PRB Case No. 1791 (May 6, 2019), is distinguishable from this case. In *Claus*, the Board rejected the International Union’s argument that the time limit for filing an appeal began to run from a phone conversation between Claus and the representative who withdrew her grievance. In that case, Claus established that the phone call in question was only partly related to her grievance and, to the extent that it was, the merits of the grievance were debated. In addition, the Board found that Claus acted diligently to protect her rights throughout the grievance process and filed an appeal within 30 days after receiving notice of the withdrawal of her grievance by certified mail.

grievance.²³ Even if she believed that formal notice was necessary in order to proceed with an appeal, she failed to take any action when that notice did not arrive within the usual time expected for postal delivery. Given the 30-day time limit for an appeal, of which she was admittedly aware, the reasonable exercise of diligence should have prompted Hall to file an appeal far earlier than she ultimately did. Under the circumstances, the PRB must conclude that Hall's appeal is untimely.

The decision of the IEB is affirmed.

²³ Although Hall indicated in her response to the President's office that her grievance was settled in 2019, she appears to have made a mistake in writing the date because the Record clearly shows that her grievance was withdrawn in 2017. But even if Hall were claiming that she was not advised of the grievance withdrawal until January 31, 2019, her appeal dated July 24, 2019 was still filed well outside of the 30-day time limit.