

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

APPEAL OF:

CORDELLA MINNEY, Member,
UAW LOCAL UNION 685
(Kokomo, Indiana), REGION 2B,

Appellant,

-vs-

CASE NO. 1830

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

Appellee.

DECISION

(Issued March 1, 2021)

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

The PRB addresses whether Appellant Cordella Minney's appeal regarding the withdrawal of her termination grievance was properly rejected as untimely.

FACTS

Appellant Cordella Minney was employed by FCA US LLC ("the Company") at the transmission plant located in Kokomo, Indiana. She was represented by UAW Local Union 685. She had a seniority date of June 20, 1997.¹

On December 6, 2013, a misdemeanor criminal charge for battery resulting in bodily injury was filed against Minney.² The Company terminated Minney on January 16, 2014, apparently because of the incident leading to the battery charge.³ The Union filed

¹ Record, p. 17.

² Record, p. 20.

³ Record, pp. 17, 37.

a grievance challenging the termination. A jury trial on the battery charge took place on June 5, 2015 and Minney was found not guilty.⁴

On September 14, 2015, the FCA US LLC-UAW Appeal Board issued a disposition withdrawing Minney's termination grievance. International Representative Harvey Hawkins sent a letter to Minney notifying her of the grievance withdrawal on September 16, 2015.⁵ Minney acknowledges receiving Hawkins' letter shortly after it was sent.⁶

Nearly five years later, on August 3, 2020, the UAW International President's office received a communication from Minney dated July 23, 2020, challenging the withdrawal of her termination grievance.⁷ The President's office advised Minney that her attempt to appeal was untimely and would not be considered.⁸ Minney filed an appeal to the International Executive Board (IEB) from the untimeliness determination.⁹ She argued that Hawkins had failed to advise her regarding the time limits for an appeal in his letter or when Minney contacted him by telephone upon receipt of the letter.

The IEB issued its decision on October 5, 2020, adopting the report prepared by the International President's staff. Staff found that a hearing on Minney's appeal was unnecessary. Staff rejected Minney's argument that her appeal should be considered because she was unaware of the time limits for appeal set forth in the UAW International Constitution.¹⁰ Staff also concluded that the case presented no circumstances which would warrant a waiver of the time limits for filing an appeal by the International President.

Minney has now appealed the IEB's decision to the Public Review Board (PRB).¹¹

ARGUMENT

A. Cordella Minney:

Yet again, I have received another denial concerning my termination grievance, which was first in the possession of UAW Local Union 685 and later the International Union in a timely manner after it was originally filed in time on January 14, 2014. Why and how has it gotten to this point several years later? It is not my fault that the grievance sat without any response while Local Union 685 and the FCA Indiana Transmission Plant tried their best to scheme and trump up legal charges against me, only to have a court of law confirm me not guilty.

⁴ Record, pp. 20, 25.

⁵ Record, p. 19. Hawkins' letter refers to Grievance No. 14-0058. Minney asserts that she never received a copy of Grievance No. 14-0058, and instead believed that the challenge to her termination was Grievance No. 14-0025. Regardless of the grievance number, however, Minney acknowledges that she became aware in September 2015 that her termination grievance had been withdrawn. Record, pp. 12, 16.

⁶ Record, pp. 12, 16.

⁷ Record, pp. 7-8.

⁸ Record, pp. 1-3.

⁹ Record, p. 12.

¹⁰ Record, p. 13.

¹¹ Record, pp. 15-16.

I was told by International Representatives Andy Ackles and Harvey Hawkins that I had to wait until my court date was over before my grievance would be resolved. After I was found not guilty in June 2015, I called to notify Ackles who then asked me to send proof of the not guilty verdict. I complied with his request and it was received at Solidarity House on July 6, 2015. At that point, it was 20 months from the date on which I submitted my timely grievance.

The fact that I am now being told seven years later in October 2020 that my appeal is untimely is not my fault since I kept being denied my rights even though I did everything in a timely manner. I have never given up on getting my job reinstated and I still will not. In September 2015, I finally received a letter from Harvey Hawkins notifying me of his decision to withdraw my grievance and stating that if I had any questions to contact him. Hawkins did not advise me of the option to appeal his decision. When I called and spoke to Hawkins, he told me that this matter was closed.

I sent documents to the International Union showing the truth regarding what the Company and Union have put me through. I am now appealing the IEB decision to the PRB.

B. International Union, UAW:

The time limits for internal appeals are clear and unambiguous as provided in Article 33, §4(c) of the UAW International Constitution. In this case, Appellant was appealing a decision by an International Representative to withdraw a grievance challenging her termination. Accordingly, the applicable time limit under Article 33, §4(c) is 30 days. It is undisputed that Appellant did not submit an appeal to the International Union for nearly five years after she became aware of the decision to withdraw the grievance. This is well outside of the Constitutional time limits.

Appellant argues that she was unaware of the Article 33 appeals procedure and that the 30-day limit should therefore be waived in her case. However, the PRB has observed, “[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, UAW*, 13 PRB 465, 470 (2007).

Furthermore, the Article 33 time limits serve an important purpose in the internal appeals procedure. As the PRB has explained:

“The Union has to be able to regard a case as closed at some point, and the Constitutional time limits specify that point. Only extraordinary circumstances justify setting those limitations aside.” *Reighard v. International Union, UAW*, 13 PRB 289, 295 (2006).

Appellant has provided no evidence of circumstances that would warrant a waiver of the Constitutional time limits. Appellant's lack of knowledge of the Constitutional time limits alone is insufficient to warrant such a waiver.

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 Hawkins' decision to withdraw Minney's termination grievance. Accordingly, the applicable time limit under Article 33, §4(c) is 30 days.

The Constitution also specifies when the time limit begins 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.

Thus, Appellant had 30 days from when she first learned of the withdrawal of her grievance in which to file an appeal with the IEB.

Appellant failed to file a timely appeal. Representative Hawkins advised Minney regarding the withdrawal by letter dated September 16, 2015. Minney acknowledges that she received Hawkins' letter shortly after it was sent. Nevertheless, she did not seek to file an appeal until July 23, 2020 when she sent her letter of protest to the International President's office. Thus, she exceeded the 30-day time limit by nearly five years.

In her submission to the PRB, Appellant appears to confuse the time limit for initiating her termination grievance with the time limit for appealing Hawkins' decision to withdraw the grievance. These are separate matters. The time limit for challenging her termination through the grievance process is contained in the applicable bargaining

agreement between the Company and the UAW. Whereas, her protest of Hawkins' decision is an internal union appeal, governed by the deadlines contained in Article 33 of the UAW International Constitution. Just because a grievance has been timely filed under the bargaining agreement does not mean that the separate requirements of the Constitution are satisfied as well.

Minney also complains that Hawkins failed to advise her that she had the option to appeal his decision either in his letter to her or in their subsequent telephone conversation. This argument is not persuasive. The PRB has consistently rejected similar arguments in prior decisions. See, e.g., *Sass, et al. v. International Union, UAW*, PRB Case No. 1826 (Dec. 21, 2020). As the Board has explained, UAW members have a "responsibility to learn [the Constitutional appeal] requirements and follow them." *Sobh v. UAW International Union*, PRB Case No. 1808, at p. 7 (Nov. 18, 2019).¹² Accordingly, a lack of knowledge regarding the requirements of the Constitution about appealing the decision to withdraw the grievance is not a satisfactory excuse for a failure to abide by the requirements.

The decision of the IEB is affirmed and the appeal is denied.

¹² Quoting *Flores, et al. v. International Executive Board*, 13 PRB 465, 470 (2007).