

STATE OF WASHINGTON
BEFORE THE MARINE EMPLOYEES' COMMISSION

MATT GALLE,)	
)	MEC CASE NO. 6-92
Complainant,)	
)	
v.)	DECISION NO. 88 - MEC
)	
DISTRICT NO. 1 PACIFIC)	
COAST DISTRICT, MEBA and)	ORDER OF DISMISSAL
DISTRICT NO. 1 MEBA/NMU)	
)	
Respondents.)	
)	

Matt Galle, pro se, appearing for and on behalf of the complainant.

Davies, Roberts and Reid, attorneys, by Ken Pedersen, appearing for and on behalf of respondent District No. 1, Pacific Coast District, MEBA.

Webster, Mrak and Blumberg, attorneys, by Mark E. Brennan and Lynn D. Weir, appearing for and on behalf of respondent District No. 1, MEBA/NMU.

INTRODUCTION AND BACKGROUND

THIS MATTER came on when Complainant Matt Galle filed a complaint on May 18, 1992 charging unfair labor practices (ULP) against two entities of the Marine Engineers Beneficial Association (MEBA), viz., District No. 1, Pacific Coast District, MEBA (hereafter PCD), MEBA) and District No. 1, MEBA/National Maritime Union (hereafter MEBA/NMU). Complainant Galle, employed as an oiler by Washington State Ferries (WSF) and a member of MEBA, charged MEBA vis a vis the aforesaid two entities with restraining or coercing WSF

employees in the exercise of rights guaranteed by chapters 47.64 RCW and 316-45 WAC. Specifically he charged that an oiler of 27 years service, John Ward, retired January 1, 1992 and after two months was denied medical coverage, despite the fact that Mark Austin, Branch Agent for PCD, MEBA, and a trustee of the MEBA Medical and Benefit Plan had assured retired and active members that their medical coverage is paid for by MEBA if they have more than twenty years employment with WSF. Galle alleged that the foregoing statement was made while the active and retired members were considering the relative merits of staying in MEBA coverage or switching to the State of Washington medical coverage plan. Galle asserted that the narrow vote (116 to 111) to stay with MEBA coverage succeeded because of Austin's statement. After that vote the MEBA Benefits Plan dropped Ward's coverage. Other unlicensed wipers and oilers would not enjoy retirement medical coverage until the year 2008. Galle charged that still other MEBA members were "retroactively dropped" from full medical coverage because of participation in the State plan from 1976 through 1981.

After notifying the parties, the Marine Employees' Commission (MEC) discussed the ULP during its regular meeting, June 19, 1992 and subsequently determined that the facts alleged by Galle may constitute an ULP if found to be true and provable. MEC docketed the case as MEC No. 6-92 and assigned it to Chairman Dan Boyd to act as examiner pursuant to WAC 316-45-130. Later the case was reassigned to Commissioner Louis O. Stewart, who conducted a prehearing conference on August 25, 1992 and set a hearing date of September 22, 1992.

Examiner Stewart perceived a possible complication, as follows: In February 1992 MEBA Port Agent Mark Austin had filed two motions for dismissal of pending grievance arbitration cases (MEC 10-91 and 11-91), stating that they had satisfactorily been settled. However, on February 21, 1992, on behalf of District No. 1 - MEBA/NMU, Attorney James Webster notified MEC that Austin's office had been

put in trusteeship on January 17, 1992. He asserted that actions of local officials purporting to settle grievances after the date of trusteeship must be approved by the trustee or his designee to be effective. Webster submitted the MEBA Constitution and a MEBA Executive Board Resolution declaring the trusteeship, but he did not identify the trustee. Even though the cases were apparently settled, Webster asked MEC to withhold dismissal for sixty days to obtain said trustee approval. Arbitrators Kokjer and Stewart did suspend action on the motions for dismissal. Then on May 28, 1992, on behalf of MEBA/NMU, Webster filed an ULP against PCD/MEBA (MEC Case No. 7-92). Although the precise subject matters of MEC Cases No. 10-91, 11-91, and 7-92 were different from the instant MEC Case No. 6-92, an issue common to each of them had arisen: viz., who is the valid representative of engineering personnel under the MEBA/WSF collective bargaining agreement? Therefore, on August 11, 1992 Stewart wrote a letter to NMU President C.E. DeFries asking for the identity of the designated trustee and/or whether a person can be designated to act for MEBA. Stewart informed DeFries that he intended to take official notice of the answer for this case only. DeFries did not reply; but two other MEBA officials did, one of whom is directly connected to one of the parties in MEC Cases No. 6-92 and 7-92. Therefore Stewart did not take official notice of either response.

Because Galle claimed that a statement vital to settlement of his complaint had not been received from the administrator of MEBA Benefit Plan, Stewart granted his motion for postponement and set a new hearing date, October 12, 1992. On October 9, 1992 Galle submitted a motion for dismissal, by FAX on the grounds that the parties had reached a settlement agreement including a concurring statement from MEBA Benefit Plan. The respondents concurred. However, Examiner Stewart denied the telephoned and FAXed motion and convened the hearing as scheduled.

Because it was evident that agreement had been reached, Stewart announced that the merits of the issue would not be examined, but he raised two questions regarding the settlement agreement and the order of dismissal.

First, pointing out the commonality of the trusteeship factor with other cases, he asked if the parties would consent by stipulation that the decision in this case would not be used in any of the other pending cases before MEC which involve MEBA. Both MEBA/PCD and MEBA/NMU declined to so stipulate.

Second, he pointed out that Complainant Galle had expended certain out-of-pocket monies to achieve medical coverage for MEBA retirees, and he invited the two respondents to assume a reasonable part of those expenses. Again, the two respondents declined.

In reaching the decision to dismiss the case, the Commission is mindful of two possibilities, however remote. First, without clarification of the trusteeship problem, it appears possible even if unlikely that a question could later be raised concerning the validity of the settlement agreement on which the dismissal is based. Second, the statement from MEBA Benefit Plans agrees to provide medical coverage for the retirees in question only so long as WSF continues to pay into the MEBA Benefit Plan, a period of time outside the control of the retirees represented by Complainant Galle. For these reasons the Commission deems it advisable to append said MEBA Benefit Plan statement (Exhibit 1) to, and make it part of, its Order in this matter, and make it clear that the issue can be renewed if the settlement agreement fails.

On the basis of the foregoing considerations, the Marine Employees' Commission now hereby enters the following decision and order.

ORDER

The complaint of unfair labor practice filed by Matt Galle against District No. 1 Pacific Coast District, MEBA and District No. 1 MEBA/NMU is hereby dismissed without prejudice.

DONE this 23rd day of October 1992.

MARINE EMPLOYEES' COMMISSION

/s/ DAN E. BOYD, Chairman

/s/ DONALD E. KOKJER, Commissioner

/s/ LOUIS O. STEWART, Commissioner

MEBA

MEBA MEDICAL & BENEFITS PLAN

EXHIBIT

MEBA PENSION TRUST

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MEBA TRAINING PLAN

8/28/92

MEBA VACATION PLAN

BENEFIT PLANS

1007 EASTERN AVENUE, BALTIMORE, MARYLAND 21202 (301)547-9111

NOTICE TO WASHINGTON STATE FERRIES EMPLOYEES AND PENSIONIERS

July 30, 1992

The purpose of this notice is to advise you of a recent decision by the MEBA Medical and Benefits Plan ("MEBA Medical Plan") Plan Board of Trustees. The decision may affect the manner in which the Plan determines your level of medical coverage after you retire. This decision applies to both Licensed and Unlicensed Employees of Washington State Ferries (WSF) who currently participate in the MEBA Medical Plan.

The Medical Plan Regulations provide for the use of pension credit earned under the MEBA Pension Trust in determining the level of medical coverage to which a Pensioner is entitled. One level of medical benefits is available to Pensioners who earned 20 or more years of pension credit, and another (reduced) level of benefits applies to Pensioners who earned less than 20 years credit. WSF does not participate in the MEBA Pension Trust and, therefore, WSF employees do not earn credit under the MEBA Pension Trust. With respect to employees who retire from WSF, the Plan has used, as an alternative method of determining the level of pensioner medical benefits, years (or portions of years) during which the employee worked for WSF and WSF made contributions to the MEBA Medical Plan on behalf of the employee.

LICENSED OFFICERS

WSF did not begin participating in the MEBA Medical Plan until 1971 and did not participate in the MEBA Medical Plan for all years after 1971. Specifically, for the period September 1, 1976 through June 30, 1981, WSF did not participate in the MEBA Medical Plan. Therefore, an employee who worked continuously for WSF from 1965 through 1991 would have 27 years of service with the State Pension Plan but only 17 years of employment counted toward his MEBA Medical coverage.

The MEBA Medical Plan has received several requests that with respect to determining the level of pensioner Medical coverage for WSF Licensed Officers retirees, the Plan take into consideration all years that the Officer worked for WSF regardless of whether the State contributed to the MEBA Medical Plan for all such years.

OILERS

Effective November 1, 1989 WSF began participation in the Plan on behalf of its Oilers. The MEBA Medical Plan has received several

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requests that with respect to determining the level of pensioner medical coverage for WSF Oiler retirees, the Plan take into consideration employment with WSF prior to the date WSF began making contributions to the MEBA Medical Plan for its Oilers.

On July 15, 1992, the Trustees agreed to change the Plan's procedure to provide that as long as WSF continues to participate in the MEBA Medical Plan and WSF's contributions include the current cost of the additional Pensioner coverage, the Plan may count all years of service with WSF for purposes of determining Pensioner medical coverage for WSF retirees. If WSF terminates its participation in the MEBA Medical Plan, coverage for these pensioners will be based only on those years in which WSF made contributions to the MEBA Medical Plan on behalf of the Pensioner and thus could revert to the less-than-20-year level (i.e., the level at which they would have been covered had the State not made additional contributions on their behalf.)

Note that in no event will WSF pensioners who have less than 20 years of employment with WSF receive the higher level of pensioner medical coverage. In addition, those WSF pensioners who actually have combined deep sea sailing with WSF time totaling more than 20 years for which contributions have been made to the MEBA Medical Plan, would continue to be covered for the higher 20+ level of benefits even if WSF terminated its participation in the Plan.

/s/ Lucille Hart, Administrator
MEBA Medical and Benefits Plan

LH:k