

EMPLOYMENT RELATIONS BOARD

OF THE

STATE OF OREGON

Case No. UP-72-03

(UNFAIR LABOR PRACTICE)

AFSCME LOCAL 2936,)	
)	
Complainant,)	
)	
v.)	RULINGS AND ORDER
)	ON PETITION FOR
)	RECONSIDERATION AND
COOS COUNTY,)	REQUEST FOR ORAL
)	ARGUMENT
Respondent.)	
_____)	

This Board issued an Order on March 13, 2006.¹ On March 27, 2006, Respondent County filed a timely petition under OAR 115-35-0050(4) which asks this Board to reconsider (1) the ruling that the “Authorization for Payroll Deduction” cards “were relevant and admissible,” (2) Findings of Fact 11, 16 and 17, (3) the conclusion that the County violated ORS 243.672(1)(f), and (4) the remedy that the County must reimburse the Union for the dues payments it would have received but for the County’s actions, plus interest on those funds at the statutory rate. We grant reconsideration, modify our Findings of Fact as described below, and otherwise adhere to our Order.

RULINGS

The County contends that the Membership Application, Authorization for Payroll Deductions Cards should not have been admitted into evidence. It raises the same arguments we considered and rejected in our Order. We decline to reconsider that ruling.

The County requests this Board to reconsider Finding of Fact 11. Specifically it asserts that the record evidence does not support the finding that “one copy of each card was retained by the County, which placed it in the employee’s personnel file.” At hearing,

¹AFSCME Local 2936 v. Coos County, Case No. UP-72-03, 21 PECBR ____ (2006).

Ms. Bright testified that she has new AFSCME-represented employees sign the Union's dues deduction authorization card, and then sends the original or a copy of the card to AFSCME for their file. We infer from this testimony that the County retained either the original or a copy for its files.² We find Finding of Fact 11 to be correct as set out in our Order.

Finding of Fact 16 states that the Union sent a "Bargaining Update" newsletter to its members on January 25, 2004.³ The County disputes that finding of fact. Upon reviewing the record, there is no testimony that the document was mailed on any specific date, but rather, that it was created on January 5, 2004. We will modify the Order accordingly. This change does not impact our analysis or the outcome.

Finding of Fact 17 states that "the Union asked the two employees who had filled out the forms to withdraw them. One of the employees did so." The County petitions this Board to correct the fact to indicate that both employees withdrew their forms. The record reflects the same and we will modify our Order accordingly. Again, this change has no impact on the analysis or the outcome.

The County continues to argue that it did not violate ORS 243.672(1)(f) when it stopped withholding union dues payments from its employees and then required the employees to submit new dues authorization forms in order for dues deductions to recommence. In support of its position, the County presents the same arguments it submitted prior to and at oral argument. In our Order, we directed the County to the language in *Oregon Public Employees Union v. Jefferson County*, Case No. UP-9-99, 18 PECBR 128 (1999). There we set out a public employer's obligations regarding deduction of union dues.

By statute, the County here is required to honor an employee's written request for dues deduction until such time as the employee submits a written request to stop the deductions. The record indicates that employees gave the County written requests for dues deduction, and there is no evidence of a request to stop. We held that the County's actions violate ORS 243.672(1)(f). The County offers no reason for this Board to depart from that holding, and we decline to do so.

The County petitions this Board to reverse its order directing the County "to

²Even if the County is correct, it would not change our analysis or the outcome. Whether or not the County retained the original card or a copy misses the point. The real issue is that the employees gave the County their dues deduction authorization cards. By statute, the County was required to honor the requests, and it does not matter if the County chose to retain a copy of the cards or not.

³Exhibit R-11.

reimburse the Union for the dues payments it would have received but for the County's actions, plus interest on those funds at the statutory rate." The County does not identify any legal precedent or record of evidence which would support this change to our Order and, absent persuasive arguments, we refuse to do so.

In its Petition for Reconsideration, the County requests oral argument. OAR 115-35-0050(4) allows this Board, at its discretion, to set an oral argument. We decline to do so in this matter.

ORDER

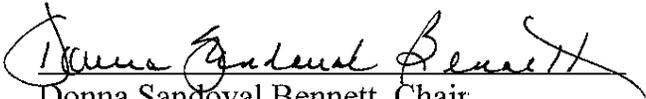
1. The Petition for Reconsideration is granted; the Request for Oral Argument is denied.

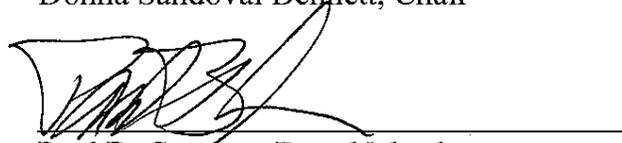
2. The first two sentences in Finding of Fact 16 are amended to read: "Two unit employees filled out and returned the authorization forms. On January 5, 2004, the Union created a 'Bargaining Update' newsletter for its members." The remainder of Finding of Fact 16 remains as set out in the Order.

3. Finding of Fact 17 is amended to read: "The Union asked the two employees who had filled out the forms to withdraw them. Both of the employees did so."

4. We adhere to the remainder of our Order of March 13, 2006.

DATED this 14th day of April 2006.


Donna Sandoval Bennett, Chair


Paul B. Gamson, Board Member


James W. Kasameyer, Board Member

This Order may be appealed pursuant to ORS 183.482.