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November 7, 2015

DECISION

Protest I-16-12 (Aldrige)
Eligibility

By email dated November 7, 2015, Darryl Aldridge appealed the Elections Committee October 29, 2015 determination that he was not eligible to run for office because he did not have 12 months of continuous good standing because he did not pay off his dues arrearage until July, 2015. Thus, he was not in continuous good standing from September 21, 2014 until September 21, 2015.

As a threshold matter, I find that the Protester is untimely in his appeal. Under the Election Rules, he has 48 hours to protest the decision of the Elections Committee. Further, I find that even on the merits, his appeal is not valid.

The facts are undisputed. The Protester did not pay dues from June 2007 until November 2008, when he went back to work and back on dues checkoff. In July 2015 he learned that he was in bad standing for not having paid his back dues from that time and he made a payment to bring himself into good standing.

The Protester cites the TWU Constitution Article XIII(3):

Where for any reason the dues of a member who pays his/her dues by checkoff authorization are not checked off by the employer for any month or months, said member shall remain in good standing until thirty days after the mailing to him/her by registered mail of a notice informing him/her of his/her indebtedness. Failure to pay within said thirty days period shall cause said member to become in bad standing.

The provision cited by the Protester only applies to a member “to whom dues check off is available.” I find that under the circumstances here, checkoff was not available to Mr. Aldridge while he was on strike because there were no wages from which dues could have been deducted. Had he been on inactive status because of being sick, injured or laid off, he could have asked for exoneration under Article XVII(4). Being on strike, however, it was his responsibility to cash pay his dues in order to maintain good standing. This he failed to do.

There was no obligation for the Union to notify Mr. Aldridge that his dues were not checked off or that he was in bad standing. The 30-day notice provision in Article XIII(3) applies only to cases where the employer fails to send to the Union the dues of a member to whom checkoff is available and who has authorized it. It is designed to protect the member from mistakes/misdeeds of the employer. It is not meant to deal with a situation where nothing is checked off because there is no income to check it off from because the member is, for example, sick, laid off, suspended or on strike.

The appeal is denied.

In accordance with the International Constitution and the Election Rules, any interested party unsatisfied with this determination may appeal to the Transport Workers Union of America Committee on Appeals. Any appeal shall be in writing and shall be filed in accordance with the procedure set forth in Article V(6)(I)(1) of the Election Rules and Articles XV and XXII of the International Constitution for the appeal to the International from decisions of Local Unions.

/s/ Barbara C. Deinhardt

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By email:
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Elections Committee