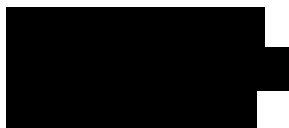




January 29, 2020



Dear [REDACTED]

This Statement of Reasons is in response to your April 16, 2019, complaint filed with the United States Department of Labor (Department) alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA) occurred in connection with the election of officers held by Local 25 (Local 25 or the union) of the International Association of Heat and Frost Insulators and Allied Workers (HFIA), on December 13, 2018.

The Department conducted an investigation of your allegation. As a result of the investigation, the Department concluded that no violation of the LMRDA occurred. This conclusion is explained below.

You alleged that you were denied the right to vote in violation of the union constitution and bylaws and the LMRDA when your request for an absentee ballot was denied on the grounds that you were not a member in good standing with voting rights. Section 401(e) of the LMRDA provides that every member in good standing "shall have the right to vote for or otherwise support the candidate of his choice . . . ." 29 U.S.C. § 481(e). Additionally, Section 401(e) of the LMRDA requires that LMRDA-covered elections be conducted in accordance with a union's constitution and bylaws. 29 U.S.C. § 481(e).

The investigation revealed that you retired from active membership in Local 25 in December 2017, paid your last dues in January 2018, and requested an absentee ballot to vote on November 27, 2018, for the December 13, 2018, officer election under Article XX, Section 13 of the HFIA constitution. In response, the general president of HFIA denied your request. He explained that under Article XIX, section 20, of the HFIA constitution and bylaws, "[n]o member shall be allowed to attend meetings or have voice or vote on any question unless he is in good standing," and that under Article XIII, Section 5, "good standing" is defined to include "those [members] with dues and all other arrearages

paid up to and including the second previous month.” He determined that, “[a] retiree who pays no union dues cannot be a member ‘with dues . . . paid’ within the meaning of that section.”

Under established case law, a union may limit voting to active members and those in good standing and, under the OLMS regulations, voting rights may be conditioned on the payment of dues as long as the rule is applied uniformly. 29 C.F.R. § 452.86. The investigation revealed that the union only granted absentee ballot requests from dues paying members and further, no retired members had been permitted to vote. In addition, the interpretation consistently placed on the union’s constitution by the responsible union official will be accepted unless the interpretation is clearly unreasonable. 29 C.F.R. § 452.3. In this case, the general president was empowered under Article XIX, Section 4, to resolve any question coming before a local union on which the HFIA constitution and bylaws were silent or not clearly defined. To the extent that the question of whether retired members who do not pay dues may vote in an officer election was unclear, the general president made his determination in accordance with the constitution, and the investigation did not reveal any evidence to suggest that this interpretation was unreasonable.

For the reasons set forth above, the Department has concluded that there was no violation of Title IV of the LMRDA that may have affected the outcome of the election. Accordingly, the office has closed the file regarding this matter.

Sincerely,



Brian A. Pifer  
Chief, Division of Enforcement

cc: James P. McCourt, General President  
Int’l Assoc. of Heat and Frost Insulators and Allied Workers  
9602 M.L. King Hwy.  
Lanham, MD 20706

Curt McGlone, Business Manager  
Insulators Local 25  
21353 Bridge Street  
Southfield, MI 48033

Beverly Dankowitz, Associate Solicitor for Civil Rights and Labor-Management