

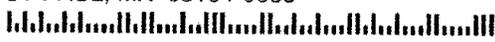


**OFFICE OF UNEMPLOYMENT COMPENSATION
DECISION ON LABOR DISPUTE ISSUE**

JFS-83000 06/01/2006



A3521766R0015889001

EFTEC NORTH AMERICA LLC PO BOX 64683 ST PAUL, MN 55164-0683 	Date Issued 08/24/2006
	Determination Identification Number
	ODJFS Office Bureau of UC Program Services
Employer's Name EFTEC NORTH AMERICA LLC	UC Account Number

THIS DECISION IS ISSUED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 4141.283, OHIO REVISED CODE

**Bureau of UC Program Services
 Ohio Dept. of Job & Family Services
 PO Box 182830
 Columbus, OH 43218-2830
 Telephone: (614) 752-8419
 Web Page: www.state.oh.us/odjfs/labordispute**

In The Matter Of A Labor Dispute Between

Union: UAW Local 888	Employer: EFTEC NORTH AMERICA LLC
Union: Cloppert, Latanick, Sauter & Washburn	Employer: EFTEC NORTH AMERICA LLC
Docket No: 00000000600022	Hearing Officer: Jim Bubutiev
Date of Hearing: 08/14/2006	Date of Issuance: 08/24/2006

APPEARANCES

Frederick G. Cloppert, Jr., and William J. Steele, Attorneys At Law, represented Local 888. Dennis Jones, UAW International Business Representative, was a witness for Local 888.

EFTEC, although properly notified pursuant to Ohio unemployment compensation law, did not appear and was not represented.

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This matter was heard by Jim Bubutiev, Hearing Officer for the Director of the Ohio Department of Job and Family Services, pursuant to Section 4141.283 of the Ohio Revised Code. The purpose of this hearing is to determine the reason for the unemployment of certain individuals who have filed claims for unemployment compensation benefits. Division (A) of Section 4141.283 of the Ohio Revised Code provides that the Director is to schedule a hearing when there is reason to believe that the unemployment of twenty-five or more individuals relates to a labor dispute. The Department of Job and Family Services has received approximately 66 unemployment compensation benefits claims that relate to a labor dispute between Local 888 and EFTEC in Dayton, Ohio.

All interested parties were notified of this hearing pursuant to Ohio law. This hearing was held on August 14, 2006, in Dayton, Ohio.

FINDINGS OF FACT

EFTEC is a manufacturer of adhesives and sealants for the automobile industry in Dayton, Ohio (Transcript Page 9).

EFTEC employs approximately 65 people in Dayton that are also members of Local 888. The claimants in this matter are members of Local 888 and work for EFTEC in Dayton (Transcript Page 10).

Local 888 s Office and Technical Unit, and Production and Maintenance Unit, had collective bargaining labor agreements with EFTEC that were effective from November 4, 2002, through November 7, 2005. The parties agreed to two extensions of the expiring collective bargaining labor agreements that were effective until January 14, 2006 (Transcript Pages 11-12,14-15,21-22,40-43/UnionExhibits A,B,C,D).

On December 4, 2005, Local 888 voted to reject EFTEC s final offer (Transcript Page 15).

Negotiation sessions for a new collective bargaining labor agreement began on June 14, 2005. A total of about twenty-four (24) negotiation sessions were held between the parties through June 29, 2006 (Transcript Pages 12-14,16-17,23-24,38).

The main issues between the parties dealt with wage reductions, an increase in the cost of health care coverage benefits, and a combining of job classifications (Transcript Pages 17-19).

Local 888 continued to work under the second extension on an informal basis until January 23, 2006. On January 23, 2006, EFTEC implemented its final offer with changes that included wage reductions, an increase in the cost of health care coverage benefits, and a combining of job classifications (Transcript Pages 19-20,22-23,28-30).

Local 888 continued working under EFTEC s implemented final offer until June 29, 2006. On June 29, 2006, EFTEC locked out Local 888 until such time as the members ratified EFTEC s final offer (Transcript Pages 21-23,43-44/Union Exhibits E,F).

On July 24, 2006, the members of Local 888 voted to accept EFTEC s final offer and notified EFTEC of the voting results. On July 26, 2006, Local 888 s representatives signed the final offer. The terms and conditions of the final offer are effective into July of 2007 (Transcript Pages 24-28,44-45/Union Exhibit G).

EFTEC continued operating after June 29, 2006, with temporary replacement workers (Transcript Pages 32-35).

On July 31, 2006, EFTEC recalled seventeen (17) Production and Maintenance Unit members of Local 888 and three (3) Office and Technical Unit members of Local 888. On August 7, 2006, EFTEC recalled another twelve (12) Production and Maintenance Unit members of Local 888. As of the date of this hearing, the remaining claimants had not been recalled to work by EFTEC (Transcript Pages 26-28,35).

ISSUES

Pursuant to Section 4141.283 of the Ohio Revised Code, this Hearing Officer is required to make a determination as to whether the claimants are disqualified from receiving benefits under the unemployment compensation laws of the State of Ohio. The issues are:

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1. What is the reason for the claimants' unemployment from EFTEC?

2. Are the claimants disqualified from receiving unemployment compensation benefits?

3. What is the duration of the labor dispute?

The applicable law is Section 4141.29(D)(1)(a) of the Ohio Revised Code which provides as follows:

(D) Notwithstanding division (A) of this section, no

individual may serve a waiting period or be paid benefits under the following conditions:

(1) For any week with respect to which the director finds that:

(a) The individual's unemployment was due to a labor dispute other than a lockout at any factory, establishment, or other premises located in this or any other state and owned or operated by the employer by which the individual is or was last employed; and for so long as the individual's unemployment is due to such labor dispute. . .

REASONING

Section 4141.29(D)(1)(a) of the Ohio Revised Code provides that no individual is entitled to benefits for any week during which the individual's unemployment is due to a labor dispute other than a lockout.

Thus, in order to come to a conclusion regarding the reason for the unemployment of the claimants, it is necessary to determine whether the labor dispute was a lockout within the meaning of the Ohio unemployment compensation law. The claimants would not be disqualified from eligibility for unemployment compensation benefits if the labor dispute were found to be a lockout.

The key issue to be resolved is whether the reason for the claimants' unemployment from EFTEC was due to a lockout or a labor dispute other than a lockout.

In *Zanesville Rapid Transit v. Bailey* (1958), 168 Ohio St. 351, the Ohio Supreme Court defined a lockout as a cessation of the furnishing of work to employees or a withholding of work from them in an effort to get for the employer more desirable terms.

The testimony and evidence in this case indicate the claimants became unemployed when they were locked out by EFTEC on June 29, 2006.

The testimony and evidence establish that EFTEC withheld work from the members of Local 888 in an effort to obtain more desirable terms in a new collective bargaining labor agreement.

Plainly, the testimony and evidence, and a review of Union Exhibits E and F, show that EFTEC took the position that the final offer implemented on January 23, 2006, had to be ratified by Local 888 or the lockout would continue. Thus, EFTEC withheld work from Local 888 until it obtained more desirable terms in the form of a ratified final offer.

Therefore, by applying the definition of a lockout from the *Zanesville* decision, it is clear that EFTEC locked out the members of Local 888 on June 29, 2006.

Accordingly, Local 888 members were unemployed due to a lockout that began June 29, 2006, and continued until July 31, 2006, when twenty (20) members of Local 888 were recalled to work after Local 888 ratified EFTEC's final offer.

DECISION

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It is the decision of this Hearing Officer that all of the claimants herein were unemployed due to a lockout which began June 29, 2006, and which ended July 31, 2006. The claimants are not disqualified from receiving unemployment compensation benefits pursuant to Section 4141.29(D)(1)(a) of the Ohio Revised Code.

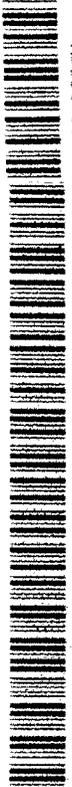
This decision applies to:
CLAIMANTS WHO ARE NOT DISQUALIFIED

APPEAL RIGHTS: If you disagree with this decision, you have the right to appeal. The following paragraph provides a detailed explanation of your appeal rights:

Application for appeal before the Unemployment Compensation Review Commission, PO Box 182299, Ohio Dept. Of Job And Family Services, Columbus, OH 43218-2299; or by fax to 1-614-387-3694; may be filed by any interested party within twenty-one (21) calendar days of the date of mailing of the decision. In order to be considered timely, the appeal must be filed in person, faxed, or postmarked no later than twenty-one (21) days after the date of mailing indicated on this decision. If the 21st calendar day falls on a Saturday, Sunday, or Legal Holiday, the period for filing is extended to include the next scheduled work day. Upon receipt of certified medical evidence stating that the interested party's physical condition or mental capacity prevented the filing of an appeal within the specified 21 calendar day period, the interested party's time for filing the appeal shall be extended and considered timely if filed within 21 calendar days after the ending of the physical or mental condition.

This decision was mailed on **08/24/2006**.

The twenty-one day appeal period ends on **09/14/2006**.



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