

**OHIO DEPARTMENT OF JOB AND FAMILY SERVICES  
OFFICE OF UNEMPLOYMENT COMPENSATION  
DECISION ON LABOR DISPUTE ISSUE**

JFS-83000 09/14/2013

<b>HAYASHI TELEMPU NORTH AMERICA CORPORATION 1500 KINGSVIEW DR LEBANON, OH 45036-8389</b>	Date Issued <b>07/17/2014</b>
	Determination Identification Number
	ODJFS Office  <b>Bureau of UC Program Services</b>
Employer's Name <b>HAYASHI TELEMPU NORTH AMERICA CORPORATION</b>	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: <http://jfs.ohio.gov/labordisputes>**

**In The Matter Of A Labor Dispute Between**

Union: <b>UAW Region 2B</b>	Employer: <b>HAYASHI TELEMPU NORTH AMERICA CORPORATION</b>
Docket No: <b>000000001400010</b>	Hearing Officer: <b>Jim Bubutiev</b>
Date of Hearing: <b>07/08/2014</b>	Date of Issuance: <b>07/17/2014</b>

**APPEARANCES**

Kristin Seifert Watson, Attorney At Law, represented UAW Local 2387. Tod Turner, Gregory Simpson, and Rachelle Howard were witnesses for Local 2387. Raymond Neusch, Attorney At Law, represented HAYASHI TELEMPU.

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.

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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 25 or more individuals relates to a labor dispute. The Department has received approximately 156 claims for unemployment compensation benefits relating to this matter.

All interested parties were duly notified of this hearing pursuant to Ohio law. This hearing was held on July 8, 2014, in Cincinnati, Ohio.

**FINDINGS OF FACT:**

The claimants in this matter are members of Local 2387 and are employed by HAYASHI TELEMPU at a facility located in Lebanon, Ohio. HAYASHI TELEMPU manufactures interior automotive parts (Transcript Pages 16,26-27).

HAYASHI TELEMPU employs an estimated 174 members of Local 2387 (Transcript Pages 16-17).

Local 2387 had a four year collective bargaining labor agreement with HAYASHI TELEMPU that expired May 31, 2014. The parties agreed to an extension of the agreement through June 14, 2014 (Transcript Pages 14-18,32/Union Exhibit 1).

Negotiations for a new agreement began in April or May of 2014 and the most recent negotiation session was held on June 26, 2014 (Transcript Pages 14,18-19).

The main issues between the parties include health insurance coverage benefits, wages, seniority rights, and paid vacation/personal days (Transcript Pages 19-21,25).

On June 11, 2014, HAYASHI TELEMPU presented a final offer to Local 2387. On June 13, 2014 the negotiating team for Local 2387 requested a meeting on June 19, 2014, to clarify and fully understand what was in the final offer, prior to having the Local 2387 members vote on it (Transcript Pages 36-38,45-46/Union Exhibits 2,4).

A lock out formally commenced on June 15, 2014, at 10:45 PM. HAYASHI TELEMPU is aware that Local 2387 members are willing to continue working under the terms and conditions of the expired agreement while negotiations continue. (Transcript Pages 12-13,28,41,44-48,50-60/Employer Exhibit A/Union Exhibits 5-7).

HAYASHI TELEMPU is believed to be continuing to operate using a salaried nonunion workforce and temporary workers (Transcript Pages 26-28).

**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 can be stated thus:

1. What is the reason for the claimants' unemployment from HAYASHI TELEMPU?
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:

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(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 their 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 Ohio unemployment compensation law.

The claimants would not be disqualified from eligibility for unemployment compensation benefits if the labor dispute is found to be a lockout.

The first issue to be resolved is whether the reason for the unemployment of the claimants from HAYASHI TELEMPU 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 withholding of work from employees in an effort to get more favorable terms for the employer.

In *Bays v. Shenango Co.* (1990), 53 Ohio St. 3d 132, a collective bargaining agreement between the employer and the union expired and the union offered to continue working under the terms of the expired contract for one year while a new contract continued to be negotiated. The Ohio Supreme Court held that if an employer refuses to allow work to continue for a reasonable time under the existing terms and conditions of employment, while negotiations continue, then the employer is deviating from the status quo.

Thus, the Supreme Court has set forth what is known as the status quo test for deciding whether a work stoppage was the result of a lockout or due to a labor dispute other than a lockout. In applying this test it must be determined which side, union or management, first refused to continue operations under the status quo after the contract had technically expired, but while negotiations were continuing. *Id.* at 134.

Furthermore, the more recent Ohio Supreme Court case of *M. Conley Co. v. Anderson* (2006) 108 Ohio St. 3d 252, favorably discussed *Bays*.

In this matter the evidence and testimony clearly indicates the claimants became unemployed when HAYASHI TELEMPU made the decision to lock them out beginning June 15, 2014. There is no evidence indicating any member of Local 2387 that worked through June 14, 2014, was not paid for their hours worked.

Applying the Zanesville definition of a lockout, the facts indicate this is an actual physical lockout by HAYASHI TELEMPU in an attempt to gain more favorable terms in a new agreement.

Applying the *Bays* legal standard, this Hearing Officer finds, based upon a review of the testimony and evidence, that HAYASHI TELEMPU changed the status quo when the decision was made to lockout the members of Local 2387, beginning on June 15, 2014, rather than allowing them to continue working while negotiations continued. The members of Local 2387 have always indicated a willingness to maintain the status quo while negotiations continued.

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Therefore, it is the conclusion of this Hearing Officer that the claimants in the instant case are unemployed due to a lockout which began on June 15, 2014 and which is continuing.

**DECISION:**

It is the decision of this Hearing Officer that all of the claimants herein were unemployed due to a lockout at HAYASHI TELEMPU. The claimants are not disqualified from receiving unemployment compensation benefits beginning June 15, 2014 pursuant to Section 4141.29(D)(1)(a) of the Ohio Revised Code.

It is also the decision of this Hearing Officer that the lockout between Local 2387 and HAYASHI TELEMPU is continuing.



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**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, Ohio Dept. Of Job And Family Services, PO Box 182299, 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. **If unemployed**, claimants should continue to file weekly claims for benefits while under appeal.

This decision was mailed on **07/17/2014**.

The twenty-one day appeal period ends on **08/07/2014**.

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