

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

JFS-83000 09/14/2013

INTERNATIONAL CONVERTER, (LLC) 17153 INDUSTRIAL HWY CALDWELL, OH 43724-9779	Date Issued 07/03/2014
	Determination Identification Number
	ODJFS Office Bureau of UC Program Services
Employer's Name INTERNATIONAL CONVERTER, (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
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Web Page: <http://jfs.ohio.gov/labordisputes>**

In The Matter Of A Labor Dispute Between

Union:	United Mine Workers Local 4826	Employer:	INTERNATIONAL CONVERTER, (LLC)
Docket No:	000000001400008	Hearing Officer:	Jim Bubutiev
Date of Hearing:	06/16/2014	Date of Issuance:	07/03/2014

APPEARANCES

Mary Jo LeMoine, Vice President of Human Resources for Packaging Dynamics, and Photoola Papaefstahiou, Human Resources and Safety Manager for International Converter, represented and were witnesses for International Converter.

Local 4826 decided not to appear at this hearing.

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 40 unemployment compensation benefits claims that relate to a labor dispute between Local 4826 and International Converter.

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All interested parties were notified of this hearing pursuant to Ohio law. This hearing was held on June 24, 2014, in Zanesville, Ohio.

FINDINGS OF FACT

Packaging Dynamics, which is headquartered in Chicago, Illinois, is the parent company of International Converter. International Converter is in the business of converting paper into laminate foil and other products for use in industry. The labor dispute between Local 4826 and International Converter involved only the facility located in Caldwell, Ohio. International Converter employs approximately 79 individuals and about 57 of them are also members of Local 4826 (Transcript Pages 9-13).

There was a three (3) year collective bargaining labor agreement between Local 4826 and International Converter which was due to expire on May 3, 2014. Negotiation sessions for a new collective bargaining labor agreement began on March 19, 2014. On April 27, 2014, Local 4826 voted to authorize a strike. On April 29, 2014, the parties agreed to a formal written extension of the soon to expire agreement through May 6, 2014. Local 4826 would not agree to any further formal extensions but the members of Local 4826 did continue to work through May 10, 2014, pending a vote on a tentative agreement on that day. Local 4826 voted to reject the tentative agreement on May 10, 2014, and formally advised International Converter, in writing, that a strike would commence on May 11, 2014. On May 11, 2014, the strike began and members of Local 4826 began picketing at International Converter in Caldwell, Ohio. The main issues between the parties dealt with wages and benefits. (Transcript Pages 15-21,24-30/Employer Exhibits A, B, and C).

International Converter was at all times willing to have the members of Local 4826 work while negotiations continued and, in fact, always wanted to sign a further formal extension of the expired agreement (Transcript Pages 29-30,32,36).

Two more negotiation sessions occurred during the time period of the strike and another tentative agreement was reached on May 30, 2014. The members of Local 4826 voted to ratify this tentative agreement on June 2, 2014, and they returned to work beginning June 3, 2014 (Transcript Pages 17-18,26).

International Converter continued to operate during the strike with employees from other facilities, their Executive Director Team, a few probationary employees, and temporary employees brought in through a third party temporary employment agency. International Converter did not hire any permanent replacement employees during the strike (Transcript Pages 13,22-23).

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:

1. What is the reason for the claimants' unemployment from International Converter?
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 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 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 issue to be resolved is whether the reason for the claimants' unemployment from International Converter was due to a lockout or a labor dispute other than a lockout.

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.

In addition, the more recent Ohio Supreme Court case of *M. Conley Co. v. Anderson* (2006) 108 Ohio St. 3d 252, favorably discusses the *Bays* case and the status quo test.

The testimony, written documentation, and evidence in this case thoroughly indicate the members of Local 4826 became unemployed when they began a work stoppage and started picketing on May 11, 2014.

It is clear that International Converter did not withhold work from the members Local 4826 in an effort to obtain more desirable terms in a new collective bargaining labor agreement.

Using the *Bays* case standard, this Hearing Officer finds, based upon a review of all the testimony and evidence, that the members of Local 4826 were the first to change the status quo, while negotiations were ongoing, when they decided to conduct a work stoppage and to picket starting on May 11, 2014. The conduct and actions of International Converter at all times indicated a willingness to maintain the status quo while negotiations continued.

Therefore, the members of Local 4826 were unemployed due to a labor dispute other than a lockout that began May 11, 2014, and which ended on June 2, 2014, when a new agreement was finally reached.

DECISION

Si usted no puede leer esto, llame por favor a 1-877-644-6562 para una traducción.



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It is the decision of this Hearing Officer that all of the claimants herein were unemployed due to a labor dispute other than a lockout beginning May 11, 2014. The claimants are disqualified from receiving unemployment compensation benefits for the week which includes May 11, 2014, through the week which includes June 2, 2014, when the labor dispute ended, pursuant to Section 4141.29(D)(1)(a) of the Ohio Revised Code.

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 **07/03/2014**.

The twenty-one day appeal period ends on **07/24/2014**.



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