OHIO Job & Family SERVICES

JFS-83000 06/01/2006

OFFICE OF UNEMPLOYMENT COMPENSATION
DECISION ON LABOR DISPUTE ISSUE

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THE CENTRAL BRASS MANUFACTURING COMPANY, (INC.) 2950 E 55TH ST CLEVELAND, OH 44127-1207 0902527009	Date Issued 08/10/2006 Determination Identification Number 213477335-1 ODJFS Office Bureau of UC Program Services
Employer's Name THE CENTRAL BRASS MANUFACTURING COMPANY, (INC	UC Account Number 0902527009

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

Bureau of UC Program Services
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In The Matter Of A Labor Dispute Between

Union:	UAW Local 1196	Employer:	THE CENTRAL BRASS MANUFACTURING COMPANY, (INC.)
Docket No:	000000000600021	Hearing Officer:	Jim Bubutiev
Date of Hearing:	07/31/2006	Date of Issuance:	08/10/2006

APPEARANCES

William Steele, Attorney At Law, represented UAW Local 1196. William Meany, UAW International Representative, was a witness for UAW Local 1196. Michael Anderton, Attorney At Law, represented Central Brass.

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 28 unemployment compensation benefits claims that relate to a labor dispute between UAW Local 1196 and Central Brass in Cleveland, Ohio.

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

All interested parties were notified of this hearing pursuant to Ohio law. This hearing was held on July 31, 2006, in Akron, Ohio.

FINDINGS OF FACT

Central Brass is a manufacturer of plumbing fixtures, including faucets and associated parts, in Cleveland, Ohio (Transcript Page 11).

Central Brass employs approximately 56 people in Cleveland that are also members of UAW Local 1196. The claimants in this matter are members of UAW Local 1196 and work for Central Brass in Cleveland (Transcript Page 12).

UAW Local 1196 had a collective bargaining labor agreement with Central Brass that was effective from April 20, 2002, through April 19, 2005. The parties agreed to two extensions of all the terms and conditions of the expiring collective bargaining labor agreement until May 5, 2005 (Transcript Pages 13-14,32,41-43/Joint Exhibit A).

On May 5, 2005, Central Brass ended the arbitration and grievance procedure process and the automatic union dues paycheck deduction provisions of the expired collective bargaining labor agreement. On July 25, 2005, Central Brass implemented its final offer that included changes in wages, in benefits including health care coverage, in the layoff and recall procedures, and with a number of other work rules (Transcript Pages 15-17,32-33/Union Exhibit 1).

Negotiation sessions for a new collective bargaining labor agreement began on April 6, 2005. A total of about eighteen (18) negotiation sessions have been held between the parties and the last four (4) have included a federal mediator. Central Brass asserts the last negotiation session was held on June 22, 2005, when the final offer was made to UAW Local 1196. UAW Local 1196 asserts the last negotiation session was held on August 15, 2005, when a counteroffer was made to Central Brass (Transcript Pages 14,19-20,33-35,43-58,67-68,93/UnionExhibit 1).

UAW Local 1196 considered the implementation of the final offer by Central Brass to be a significant and regressive change in the terms and conditions of employment. However, the members of UAW Local 1196 continued to work under the terms and conditions of the final offer from July 25, 2005, until August 15, 2005 (Transcript Pages 18,78-83).

On August 10, 2005, the members of UAW Local 1196 voted to reject the final offer presented by Central Brass and to authorize a work stoppage. In a separate vote, the members of UAW Local 1196 voted to approve a counteroffer to Central Brass. On August 15, 2005, Central Brass rejected the counteroffer and UAW Local 1196 responded by commencing with a work stoppage and began picketing in the early afternoon of that day. UAW Local 1196 asserts that as of August 15, 2005, and since then, Central Brass has taken the position that its final offer is the only available option (Transcript Pages 16,18-19,24-30,36,68-73,78-83,99).

The main issues between the parties deal with wages and the health care coverage benefit costs (Transcript Pages 17,20-21,60-61,89).

Central Brass has continued to operate, since August 15, 2005, with ten (10) members of UAW Local 1196 that never participated in the work stoppage, another four (4) members of UAW Local 1196 that returned to work during the course of the work stoppage but prior to May 24, 2006, salaried personnel, and temporary replacement workers hired through a third party agency (Transcript Pages 21-22,75-76).

UAW Local 1196 asserts that its members were willing to work under the terms and conditions of the expired collective bargaining agreement and that a work stoppage would not have occurred on August 15, 2005, had Central Brass not implemented its final offer (Transcript Pages 28-29). On May 23, 2006, Central Brass, through legal counsel, sent UAW Local 1196 a letter that stated as follows:

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As you know, the members of UAW Local 1196 currently are engaged in a strike against the Central Brass Manufacturing Company. As you also know, some employees have crossed the picket line and returned to work during the strike. You are hereby notified that, effective immediately, the Company will not allow any additional striking employees to return to work until a new collective bargaining agreement is agreed to and ratified by the membership of Local 1196. Those employees who had already returned to work prior to May 24, 2006 will be allowed to continue to work.

Two members of UAW Local 1196 returned to work the week prior to May 24, 2006. However, two different members of UAW Local 1196 attempted to return to work after May 23, 2006, and were denied entry into the Central Brass facility in Cleveland (Transcript Pages 30-32,75,91-92).

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 Central Brass?

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 first issue to be resolved is whether the reason for the claimants' unemployment from Central Brass 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.

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In Zanesville, the employer implemented a ten percent (10%) wage reduction after the expiration of the labor agreement. The employer was a public utility that had experienced problems making a profit and had been unable to gain permission from the local city council to increase fares.

The court held that the ten percent (10%) wage reduction was reasonable under the circumstances and did not show a purpose on the part of the company to coerce the employees into accepting it and, therefore, was not a lockout.

The testimony and evidence in this case indicate the claimants became unemployed when they were locked out by Central Brass on May 24, 2006.

The testimony and evidence establish that Central Brass is withholding work from the members of UAW Local 1196 in an effort to obtain more desirable terms in a new collective bargaining labor agreement. There have been no negotiations of any sort between the parties since August 15, 2005, and it appears from the record there have been no meaningful negotiations since May or June of 2005. Clearly, the testimony and evidence establish that Central Brass has taken the position that the final offer presented to UAW Local 1196 on June 22, 2005, and implemented on July 25, 2005, is all that is available for acceptance. A review of Union Exhibit 2 indicates that no member of UAW Local 1196 will be allowed to return to work until a new collective bargaining agreement is agreed to and ratified by the members of UAW Local 1196. The final offer is the only new collective bargaining agreement that could be agreed to and ratified by UAW Local 1196. Thus, Central Brass is withholding work from UAW Local 1196 in an effort to get more desirable terms. There is further proof of this in the record since two individuals from UAW Local 1196 were allowed to return to work in the week prior to May 24, 2006, while two others were denied the opportunity to return to work after May 23, 2006.

UAW Local 1196 and Central Brass are involved in a labor dispute that has resulted in Central Brass locking out the UAW Local 1196 members in an effort to obtain terms that are more desirable in a new collective bargaining labor agreement.

Therefore, by applying the definition of a lockout from the Zanesville decision, it is clear that Central Brass locked out the members of UAW Local 1196 on May 24, 2006.

Accordingly, UAW Local 1196 members are unemployed due to a lockout which began May 24, 2006, 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 which began May 24, 2006, and which is continuing. 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 **08/10/2006**.

The twenty-one day appeal period ends on **08/31/2006**.

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