

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

JFS-R-3000 03/13/2015



JEWEL ACQUISITION LLC 100 RIVER RD BRACKENRIDGE, PA 15014	Date Issued 09/18/2015
	Determination Identification Number
	ODJFS Office Bureau of UC Program Services
Employer's Name JEWEL ACQUISITION 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: <http://jfs.ohio.gov/labordisputes>**

In The Matter Of A Labor Dispute Between

Union:	USW Local 1046	Employer:	JEWEL ACQUISITION LLC
Docket No:	000000001500015	Hearing Officer:	Jim Bubutiev
Date of Hearing:	09/15/2015	Date of Issuance:	09/18/2015

Appearances

Timothy Gallagher, Attorney At Law, represented United Steelworkers Local 1046 (Local 1046). Dennis Brommer, United Steelworkers District 1 Sub-District 2 Director, was a witness for Local 1046.

Jewel Acquisition LLC (ATI Flat Rolled Products) did not make an appearance.

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.

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

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 has received approximately 106 claims for unemployment compensation benefits relating to this matter.

All interested parties were notified of this hearing pursuant to Ohio law. This hearing was held on September 15, 2015, in Akron, Ohio.

FINDINGS OF FACT:

The claimants in this matter are members of Local 1046 and are employed by ATI Flat Rolled Products in Louisville, Ohio.

ATI Flat Rolled Products is a producer of stainless and specialty steel, titanium and titanium alloys. The labor dispute in this matter involves only the Louisville, Ohio facility.

ATI Flat Rolled Products employs an estimated 120 individuals, and approximately 110 are members of Local 1046.

Local 1046 had a collective bargaining labor agreement with ATI Flat Rolled Products that was effective for a four year period from on or about July 1, 2011 through June 30, 2015.

Starting in May of 2015 the parties began negotiations for a new collective bargaining agreement. A series of negotiations were held between the parties up to and through June 30, 2015 and again on August 6, 2015.

The main issues keeping the parties from reaching a new agreement include matters pertaining to health care coverage, subcontracting, overtime rules, terms and conditions of employment for newly hired employees, and other economic items.

On June 30, 2015, Local 1046 members offered to continue working under the terms and conditions of the expiring collective bargaining agreement as negotiations continued (Union Exhibit 1). ATI Flat Rolled Products accepted the offer and members of Local 1046 continued working.

On August 6, 2015, ATI Flat Rolled Products made what was termed a last, best and final offer and reserved the right to impose a lockout if the offer was not accepted by Local 1046 (Union Exhibit 2).

On August 14, 2015, ATI Flat Rolled Products indicated in writing that a lockout of the members of Local 1046 would begin on August 15, 2015 at 10:00 PM unless and until the August 6, 2015 proposal is accepted and ratified by the membership (Union Exhibit 3). ATI Flat Rolled Products indicated the lockout action was being done for the sole purpose of supporting its bargaining position in negotiations with Local 1046 (Union Exhibits 3 and 4).

On August 14, 2015, Local 1046 responded to ATI Flat Rolled Products in writing, and indicated that the Local 1046 members remain willing to continue working under the terms and conditions of the expiring collective bargaining agreement as negotiations for a new agreement continue (Union Exhibit 5).

During the entire course of negotiations Local 1046 has not had members vote to authorize a strike.

The members of Local 1046 have at all times been willing to continue working under all the terms and conditions of the now expired agreement.

On August 14, 2015, ATI Flat Rolled Products escorted Local 1046 members out of the Louisville facility and told other members of Local 1046 not to report to work that day.

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ATI Flat Rolled Products formally locked out the members of Local 1046 on August 15, 2015 at 10:00 PM.

Local 1046 asserts that ATI Flat Rolled Products appears to be attempting to continue operations using nonunion personnel and temporary replacement workers.

A Federal Mediator had the parties meet on September 11, 2015 but no progress was made. No further negotiations have been scheduled as of the date of this hearing.

Local 1046 is picketing at the ATI Flat Rolled Products facility in Louisville. The signs being carried by the picketers say a lockout is occurring (Union Exhibit 6).

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 unemployment of the claimants from ATI Flat Rolled Products?
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, in part, 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 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 the 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 ATI Flat Rolled Products was due to a lockout or a labor dispute other than a lockout.

The documentation, testimony, and evidence definitively show that the claimants became unemployed when ATI Flat Rolled Products made the decision to lock them out of the Louisville facility beginning on August 15, 2015.

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.

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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 **09/18/2015**.

The twenty-one day appeal period ends on **10/09/2015**.

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