

A.B.D. No. 86-11

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION APPEAL BOARD

OAL DKT #PRB-5349-85  
AGENCY DKT #AB-85-9

**PAUL L. STRACKER**

Petitioner,

v.

**LOCAL 195, INTERNATIONAL FEDERATION  
OF PROFESSIONAL AND TECHNICAL  
ENGINEERS, AFL-CIO**

Respondent.

**Paul L. Stracker**, petitioner, pro se

**Nancy I. Oxfeld**, Esq. (Oxfeld, Cohen & Blunda, attorneys)  
for respondent

DECISION AND ORDER

On April 15, 1986, the Public Employment Relations Commission Appeal Board ("Appeal Board") ordered Respondent, Local 195 ("Local 195"), an affiliate of the International Federation of Professional and Technical Engineers, AFL-CIO ("IFPTE"), to refund to Paul L. Stracker ("Petitioner") a portion of the representation fee in lieu of dues paid to Local 195 during its fiscal year ending June 30, 1985. A.B.D. No. 86-10, 12 NJPER (¶ 1986). The refund represented that portion of Petitioner's representation fee which Local 195 had forwarded to IFPTE as a "per capita tax." We found that Local 195 had not met its burden of proof with respect to the Petitioner's per capita tax, since Local 195 did not offer testimony about IFPTE's expenses.

On April 23, 1986, Local 195 moved for reconsideration. Local 195 acknowledged that "there is insufficient proof as to how IFPTE used money forwarded by Local 195...", but asserted that "[t]he reason for the lack of evidence is because this was not an issue before the Administrative Law Judge and therefore evidence was not presented." In support of this position, Local 195 referenced discussions between the parties and the ALJ at a prehearing conference, and asserted that "never at any time during the proceeding...was any challenge being raised to the use of the money by the International Union." Local 195 also sought clarification of footnote 2 of our decision to more accurately reflect the record.

While neither our rules nor those of the Office of Administrative Law contemplate motions for reconsideration, administrative agencies have the inherent authority to consider such motions absent legislative restriction. In re Trantino Parole Application, 89 N.J. 347, 364 (1982). Consonant with such authority, we have carefully considered the motion. For the reasons stated below, we deny the motion.<sup>1/</sup>

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<sup>1/</sup> On reexamination of the record, we agree that the second sentence of footnote 2 in our original decision should be modified. The modified footnote shall be:

"The Petitioner states in his exceptions that he tried to subpoena the International President of IFPTE to testify, but his request was rejected by Judge Weiss. Local 195 denies that the exchange took place, and the record is silent on the issue."

While Local 195 maintains that prehearing discussions made clear that the Petitioner was not contesting IFPTE's use of his per capita tax, this representation is not supported by the record. No stipulation excluding the issue was entered on the record; the prehearing order issued by the ALJ on November 4, 1985 references neither stipulations nor limitations as to proofs of IFPTE's expenditures; and the transcript of the hearing is replete with attempts by the Petitioner to raise the issue and elicit testimony on the International's expenditures of per capita taxes forwarded by Local 195. (Transcript at pp. 28-43). In view of the above, and the fact that the burden of proof is on the majority representative, we will not disturb our prior ruling. We emphasize that nothing in this or our original decision indicates any improper expenditure by Local 195 or by IFPTE. The decisions rest solely on Local 195's failure in the hearing in this matter to meet its burden of proof as to IFPTE's expenditures.

ORDER

The motion for reconsideration is denied.

BY ORDER OF THE APPEAL BOARD

Robert J. Pacca  
Chairman

Chairman Pacca and Board Member Dorf voted in favor of this decision. Board Member Verhage took no part in consideration of this decision.

DATED: Trenton, New Jersey  
April 29, 1986