

LOWELL SCHOOL COMMITTEE AND THOMAS GRADY, ET AL. AND UNITED TEACHERS OF LOWELL,
LOCAL 495, AND MASSACHUSETTS FEDERATION OF TEACHERS, SI-215 (9/8/88). INTERIM ORDER.

91.1 dismissal
107. Picketing
108. Strikes
108.4 setting requirements under Chapter 150E, Section 9

Commissioners Participating:

Paul T. Edgar, Chairman
Maria C. Walsh, Commissioner
Elizabeth K. Boyer, Commissioner

Appearances By:

Victor F. Forsley, Esq.	- Representing the Lowell School Committee
Joseph R. Lettiere, Esq.	- Representing the Massachusetts Federation of Teachers, AFT, AFL-CIO and its affiliate the United Teachers of Lowell, Local 495 and certain other respondents ¹

INTERIM ORDER

On September 6, 1988, the Lowell School Committee (School Committee) filed a petition with the Labor Relations Commission (Commission) pursuant to Section 9A(b) of G.L. c.150E (the Law). The School Committee alleged that the Massachusetts Federation of Teachers, its affiliate, the United Teachers of Lowell, and certain named individual officers² and its members were about to engage in a strike and/or withholding of services beginning on September 7, 1988.

The Commission scheduled an investigation to commence at 9:30 a.m. on September 8, 1988, and issued a Notice of Investigation to the parties.³

¹Specifically Attorney Lettiere entered an appearance on behalf of all respondents except Donna Janowicz, on whose behalf Attorney Lettiere entered a special appearance to contest the adequacy of service upon Ms. Janowicz.

²The School Committee alleged the involvement of the following: Thomas Grady, President of the United Teachers of Lowell; Francene Donahue, First Vice President of the United Teachers of Lowell; Margo Checrallah, Corresponding Secretary of the United Teachers of Lowell, Donna Janowicz, Recording Secretary of the United Teachers of Lowell; and Brandon Sullivan, Vice President of the United Teachers of Lowell.

³The School Committee served the Notice of Investigation and the Petition upon the respondents, and the respondents do not contest service except in one respect. The School Committee left a copy of the Notice and Petition for Donna

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The investigation began at approximately 10:00 a.m. and on the basis of the investigation, we hereby make the following findings of fact.

FACTS

The United Teachers of Lowell, Local 495 (herein the Union), affiliated with the Massachusetts Federation of Teachers, represents a bargaining unit of approximately 980 teachers employed by the School Committee.

Thomas Grady is a member and President of the Union and a teacher employed by the School Committee. Francene Donahue is a member and First Vice President of the Union and is a teacher employed by the School Committee. Brendan Sullivan is a member and Vice President of the Union and a teacher employed by the School Committee. Margo Checraillah is a member and Corresponding Secretary of the Union and is a teacher employed by the School Committee. Donna Janowicz is a member and Recording Secretary of the Union and is a teacher employed by the School Committee.

The most recent collective bargaining agreement between the School Committee and the Union expired on June 30, 1988. The parties have been bargaining for a successor agreement since December 1987. Since the commencement of negotiations, the parties have held approximately fourteen negotiation sessions including three conducted under the direction of the Massachusetts Board of Conciliation and Arbitration. The last session was held on September 1, 1988. At that time, the Union members rejected the Committee's final offer. No subsequent negotiation sessions have been held, and there is no evidence that any further negotiation sessions are scheduled.

At some point prior to September 6, 1988, the Union established a "strike headquarters" in downtown Lowell. On September 6, 1988, there was a meeting of the membership of the Union.

There are 31 schools in Lowell. The reporting hours for teachers vary among the elementary and middle schools from 7:45 a.m. to 9:15 a.m.; at the high school teachers must report by 7:15 a.m. All teachers were required to report to work during regular school hours on September 7, 1988, for the first day of classes.

On September 7, 1988, 969 teachers out of 980 scheduled to work were absent without excuse. On September 8, 1988, 974 teachers out of 980 were absent without

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Janowicz at 89 Beaulieu St., Lowell, her last known address. Attorney Lettiere contended that Ms. Janowicz has a different present address. No proof of Ms. Janowicz's present or past address was offered but the School Committee's affidavit of service affirms that 89 Beaulieu St., Lowell is Ms. Janowicz's last and usual address. In view of our disposition of the Motion to Dismiss the Petition as to Ms. Janowicz, we need not decide whether service upon her was adequate.



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excuse. On September 7, four teachers reported to work and seven were excused. On September 8, three teachers reported for work and three were excused. On both September 7 and 8, Union President Grady and Union Vice President Sullivan were absent without excuse. On September 8 Union Corresponding Secretary Checrallah and Union First Vice President Donahue were absent without excuse.⁴

On September 7, 1988, between 10:00 a.m. and 11:40 a.m., School Deputy Superintendent James McMahon observed 25 teachers picketing outside the School Committee administration building. On September 8, 1988, Deputy Superintendent McMahon observed teachers again picketing outside the administration building between 7 a.m. and 8:45 a.m. Deputy Superintendent McMahon also observed high school teachers picketing at the Lowell High School at approximately 8:45 a.m. High School teachers were also observed picketing during school hours on September 7 and 8 by High School Principal Peter Stanas. Principal Joseph P. Holden of the Daley Junior High School observed junior high school teachers picketing during school hours on September 7, 1988. Principal Judith Rizzo of the Lincoln Elementary School observed Lincoln School teachers picketing in front of the school during school hours on September 7. Union President Thomas Grady was observed during school hours talking to picketing teachers at the administration building, at the High School, and at the Lincoln School on September 7, 1988. In addition, Union Vice President Brendan Sullivan was observed during school hours talking to picketing teachers at the High School on September 7, 1988. On September 8, 1988, Union President Grady was observed talking with picketing teachers outside the administration building during school hours.

Teachers on the picket lines at the schools were observed carrying a variety of picket signs including signs saying "ON STRIKE."

DISCUSSION

The Union moved to dismiss the Petition as to all the named defendants⁵ because of insufficient evidence. Based upon the facts above, we conclude that the teachers represented by the Union have been engaged in a strike beginning on September 7, 1988, and continuing to date. We further conclude that the United Teachers of Lowell, Local 495 and certain of its officers have engaged in, and induced, encouraged, and condoned the strike.

⁴Neither Checrallah nor Donahue reported to work on September 7, but the evidence does not indicate whether their absences were excused. No evidence was offered concerning whether officer Janowicz reported to work as scheduled.

⁵Attorney Lettiere's Motion to Dismiss also sought dismissal of the Petition against Massachusetts Federation of Teachers President Paul Devlin. Since President Devlin was not named in the Petition, the Commission has no basis for proceeding against him and need not dismiss the Petition as to him.



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The Commission can infer the existence of a strike from, *inter alia*, the absence without excuse or authorization of nearly 100% of the teachers regularly scheduled to report to work in the context of a dispute over the terms of a successor collective bargaining agreement and the fact that employees carried picket signs announcing the strike outside of schools during working hours on both days. See e.g., Everett School Committee, 14 MLC 1284 (1987); Tewksbury School Committee, 12 MLC 1353, 1359 (1985).

We note that Union officers Grady and Sullivan were among the approximately 969 teachers who did not report for work on September 7, and among the 974 teachers who did not report to work on September 8. Both officers were observed talking with picketing teachers during school hours on both days. Also we note that Union officers Donahue and Checralah were absent without excuse on September 8. Finally, we note that the Union established a "Strike Headquarters." It is clear from these facts that the Union was both aware of and involved in the concerted withholding of services by the employees. Taken together, we find these facts are sufficient to conclude that the Union Induced, encouraged and condoned the strike in violation of the Law. See Northeast Metropolitan Regional Vocational School Committee, 13 MLC 1213, 1216 (1986).

We conclude, however, that the evidence is insufficient to establish any involvement by the Massachusetts Federation of Teachers or by Ms. Janowicz individually and we therefore dismiss the Petition as to the Massachusetts Federation of Teachers and as to Ms. Janowicz in her individual capacity.

WHEREFORE, on the basis of the facts set forth above, we conclude that the United Teachers of Lowell, Local 495, officers Grady, Donahue, Checralah and Sullivan and the employees whom the Union represents, are engaged in a strike, work stoppage, slowdown or withholding of services in violation of Section 9A(a) of G.L. c.150E. We further find that the United Teachers of Lowell, Local 495, through the conduct of certain of its officers has induced, encouraged and condoned the strike in violation of Section 9A(a) of G.L. c.150E.

Accordingly, by virtue of the power vested in the Commission by Section 9A(b) of the Law, we hereby issue the following ORDER:

1. The United Teachers of Lowell, Local 495, officers Grady, Donahue, Checralah and Sullivan, and the employees whom the Union represents shall immediately cease and desist from engaging in any strike, work stoppage, slowdown or other withholding of services.
2. The United Teachers of Lowell, Local 495, its officers, agents and members, shall immediately cease and desist from encouraging, condoning or inducing any strike, work stoppage, slowdown or other withholding of services. The United Teachers of Lowell, Local 495 shall not permit its officers or agents to encourage, condone or induce any strike, work stoppage, slowdown or other withholding of services.
3. The United Teachers of Lowell, Local 495, and officers Grady, Donahue,



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Checrallah and Sullivan shall take necessary action before the start of the next regularly scheduled school day to inform the Union's members of the provisions of Section 9A(a) of the Law and of the contents of this Interim Order.

4. The School Committee and the United Teachers of Lowell, Local 495, shall continue to bargain in good faith and further, shall participate in mediation as may be directed by the Board of Conciliation and Arbitration.
5. The United Teachers of Lowell, Local 495, Officers Grady, Donahue, Checrallah, and Sullivan and the School Committee, shall notify the Commission at 9:30 a.m. on September 9, 1988, of the steps taken to comply with this Interim Order.
6. The Commission retains jurisdiction of this matter to set further requirements as may be appropriate.

SO ORDERED.

COMMONWEALTH OF MASSACHUSETTS
LABOR RELATIONS COMMISSION

PAUL T. EDGAR, CHAIRMAN
MARIA C. WALSH, COMMISSIONER
ELIZABETH K. BOYER, COMMISSIONER

