



**Brotherhood of Maintenance of Way Employees Division  
of the International Brotherhood of Teamsters**

Freddie N. Simpson  
*President*

Perry K. Geller, Sr.  
*Secretary-Treasurer*

February 22, 2008

All General Chairmen

Dear Sirs and Brothers:

Re: **BMWED Bylaws Interpretation**  
(Does a member of the system Joint Protective Board  
have to pay monthly dues to remain a Joint Protective  
Board Member while he is absent from work due to  
injury?)

Inasmuch as the above-referenced interpretation has very broad application and addresses situations which routinely occur in our Organization, attached is a copy of Wisconsin Central System Division General Chairman Joe Letizia's request for same dated November 5, 2007, and my response of November 21, 2007, detailing the interpretation.

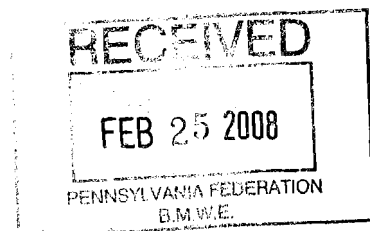
Fraternally yours,

President

**Attachment**

cc: Mr. Perry K. Geller, Sr.  
National Division Vice Presidents  
Mr. Richard A. Inclima

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Southfield, MI 48076  
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**Brotherhood of Maintenance of Way Employes Division**

*Of the International Brotherhood of Teamsters*  
**Wisconsin Central System Division**

**Joe Letizia**  
General Chairman  
205 Gray Street  
Green Bay, WI 54303  
715-572-7127

**Thomas Daffinson**  
Vice Chairman  
PO Box 413  
Osseo, WI 54758  
715-597-2611

**Chris Peters**  
2<sup>nd</sup> Vice Chairman  
3641 Town Hall Rd.  
Junction City, WI 54443  
715-457-2296

November 5, 2007

Freddie Simpson  
President-BMWED  
20300 Civic Center Dr. Suite 320  
Southfield, MI 48076-4169

Dear President Simpson,

The purpose of this letter is to ask for your assistance in interpreting the BMWED By-Laws and/or BMWED-IBT Merger Agreement concerning a system officer's dues obligation during an absence from work due to an injury or sickness. I have researched the BMWED By-Laws and BMWED-IBT Merger Agreement for the answer to my question several times. Unfortunately I have not identified a clear answer.

The member in question is Roger Kuske who is a WC Joint Protective Board Member representing Local 2928. Mr. Kuske has been absent from work due to an on-the-job accumulative back injury, which began on March 15, 2007. He has been a member in good standing and has continued to pay his assumed monthly dues obligation despite the financial burden that he and his family face due to his absence from work. He takes his position as Joint Protective Board Member very seriously and would like to continue to provide his knowledge and support to our system and Brotherhood. He was nominated and elected while he was still working and paying full dues. My question then, is does he have to pay the monthly dues to remain a Joint Protective Board Member while he is absent from work due to this injury?

Please respond at your earliest convenience as this member continues to pay dues each month but could certainly use the money for other financial obligations.

Thank you for your time.

Fraternally,



Joe Letizia



# Brotherhood of Maintenance of Way Employees Division of the International Brotherhood of Teamsters

Freddie N. Simpson  
*President*

Perry K. Geller, Sr.  
*Secretary-Treasurer*

November 21, 2007  
(Via facsimile and mail)

Mr. Joe Letizia, General Chairman  
Wisconsin Central System Division  
205 Gray Street  
Green Bay, WI 54303

Dear Brother Letizia:

Re: Request for Interpretation dated November 5, 2007

This has reference to your letter dated November 5, 2007 wherein you request an interpretation on the following question, which I have paraphrased below:

Question: Does a member of the system Joint Protective Board have to pay monthly dues to remain a Joint Protective Board Member while he is absent from work due to injury?

To provide an answer to this question, we must refer to the BMWED Bylaws, the Merger Agreement, and the Teamsters Constitution as each has provisions which are applicable to the question at hand.

Article XVI, Section 2 of the BMWED Bylaws addresses the issuance of Unemployment Cards and the rights of members who are out of work due to a reduction in force, sickness or temporary disability, strikes or lockouts, or when serving in the military. Article XVI, Section 2 states, in pertinent parts:

“Any member who is fully paid up and in good standing shall be entitled to an Unemployment Card, without cost, when laid off through a reduction in forces, sickness or temporary disability, strikes or lockouts, or when serving in the Military Service of the United States. . . .”

“Members who apply for an Unemployment Care must do so within sixty (60) days from the last day of the month in which they were employed. . . .”

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"A member holding an Unemployment Card shall for one year from the date of its issuance be considered a member in good standing and shall be entitled to all the rights, privileges, benefits and protection guaranteed by these Bylaws of the National Division except as provided in the Merger Agreement. After one year, such member shall be entitled to a seat in the Local Lodge while in session, but shall not be entitled to a voice or a vote. . . ." (Emphasis added)

Article XIX, Section 2 of the BMWED Bylaws addresses member participation in the Protective Department and eligibility for membership on a System Joint Protective Board. Article XIX, Section 2 states:

"Membership Participation. Each member in good standing in the BMWED shall be required to participate in the Protective Department subject to the laws, rules and regulations by which it is now or may hereafter be governed.

"Any member of the BMWED in good standing within the jurisdiction of a System Division or Federation Joint Protective Board is eligible for membership on said Board; provided, however, that after organizing, such Boards may, consistent with the provisions of these Bylaws, the Merger Agreement and applicable law, decide eligibility to membership on said Board."

Thus, based upon the forgoing provisions of the BMWED Bylaws, a member who has applied for an Unemployment Card within sixty days from the last day of the month in which they were employed would be considered a member in good standing and be entitled to all the rights, privileges, benefits and protection guaranteed by the Bylaws of the National Division, except as provided in the Merger Agreement. Based upon the information contained in your letter, Brother Kuske began his absence from work on March 15, 2007, thus requiring him to have applied for an Unemployment Card within 60 days of the last day of March 2007, i.e., by May 30, 2007. Insofar as the National Division does not have an Unemployment Card on record for Brother Kuske, I can only conclude that application for an Unemployment Card was not made during the 60-day period specified by Article XVI, Section 2. If an Unemployment Card had been timely issued, Brother Kuske would have remained entitled, for a period of one year, to all the rights, privileges, benefits and protection guaranteed by the Bylaws of the National Division, except as provided in the Merger Agreement. In other words, he would have been eligible to participate in the affairs and business of the BMWED during the first 12 months of unemployment without payment of dues, except for such business related to nominating, seconding and voting in officer and delegate elections, and except for maintenance of "continuous good standing" for eligibility to run for office.

Next we look to Paragraphs 4.8 and 4.9 of the Merger Agreement and its references to the Teamster Constitution as it relates to the "good standing" and "continuous good standing" provisions of the Teamster Constitution. Article X, Section 5 (c) of the Teamster Constitution states, in pertinent part:

"All members paying dues to Local Unions must pay them on or before the last business day of the current month. Membership dues to Local Unions are due on or before the first day of the month and must be paid on or before the last business day of that month. Any member failing to pay his dues at such time shall not be in good standing for such month but may restore such good standing for such month for the purpose of attending meetings, nominating, voting, and participating in the affairs of the Local Union by the payment of his delinquent dues prior to said meeting. Payment of such dues after their due date shall not restore good standing status for such month or months in computing the continuous good standing status required by Article II, Section 4 of this Constitution as a condition of eligibility for office..."

As stated previously, the timely issuance of an Unemployment Card would have allowed Brother Kuske to participate in *most* of the affairs (excluding nominations and elections) of the union, including participation on the Joint Protective Board, for a period of one year from the effective date of the Unemployment Card without the payment of dues while unemployed. Eligibility to nominate or vote in elections, however, is an exception to the rights granted by a BMWED Unemployment Card, and such right to nominate or vote in elections is governed by the good standing provisions of Article X, Section 5 (c) of the Teamster Constitution and Paragraph 4.8 of the Merger Agreement. Also, be mindful that the issuance of Unemployment Cards does not satisfy the requirement to maintain "continuous good standing" status under the Teamster Constitution for the purpose of eligibility to run for office (see Paragraph 4.9 of the Merger Agreement and Article II, Section 4 of the Teamster Constitution).

The fact of the matter is that neither the BMWED Bylaws nor the Teamster Constitution specifically requires the payment of dues during periods of unemployment. Thus, even in the absence of the timely issuance of an Unemployment Card, Brother Kuske may still retain his position as a member of the Joint Protective Board while unemployed, provided that he restores his "good standing" by paying dues (i.e., restores one month good standing) for the month prior to the month in which he is actively participating in union meetings, nominating, voting, or participating in the affairs of his Local Lodge or as a member of the Joint Protective Board. Absent the requirement to restore (one month) good standing for the purpose of participating in union meetings, nominating, voting, and participating in the affairs of his Local Lodge or the Joint

Protective Board, Brother Kuske (or any other similarly situated elected officer), would not otherwise be required to pay dues during his period of unemployment as a condition of holding elective office, including a position on the Joint Protective Board.

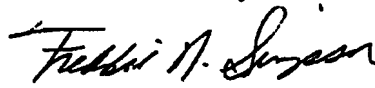
Keep in mind, however, that once a member, whether active or unemployed, breaks his "continuous good standing" by not paying dues during the month they are due, they can not restore their "continuous good standing" by the payment of back dues. Article X, Section 5 (c) of the Teamster Constitution is clear on this matter wherein it states, in pertinent part:

" . . . Payment of such dues after their due date shall not restore good standing status for such month or months in computing the continuous good standing status required by Article II, Section 4 of this Constitution as a condition of eligibility for office...."

Therefore, in order to be eligible to run for office at a future date, it will be necessary for Brother Kuske, and every other BMWED member, to have the required number of months of "continuous good standing" at the time of nomination as stipulated in Paragraph 4.9 of the Merger Agreement, without a late or missing payment regardless of active, furloughed or sick/disabled status. As information, in accordance with the Merger Agreement, the requirement to maintain a full 24 months of continuous good standing for eligibility to office will commence December 1, 2007.

Please do not hesitate to contact this office if you have any questions or need additional clarification.

In Solidarity,



President

cc: Mr. Perry Geller, Secretary-Treasurer  
Mr. Leon Fenhaus, Vice President  
Mr. Rick Inclima  
Ms. Kate Clark