

BEFORE THE DEPARTMENT OF LABOR AND EMPLOYMENT
STATE OF COLORADO
Case No. 100-08-01

ORDER

In the matter of Notice of Intent to Strike of:

AMALGAMATED TRANSIT UNION, LOCAL 1001

against

REGIONAL TRANSPORTATION DISTRICT

Introduction

On January 20, 2009, the Amalgamated Transit Union, Local 1001 (ATU), filed with the Division of Labor its Notice of Intent to Strike against the Regional Transportation District (RTD). At the time the parties had been engaged in contract negotiations.

Findings of Fact

1. As of 2007 RTD serves multiple counties as delineated in sections 32-9-106 to 32-9-106.7, C.R.S., covering in excess of 2,330 square miles and with a service area population exceeding 2.6 million.
2. RTD provided 93,425,922 annual boardings in the year from September 2006 thru September 2007.
3. RTD employs approximately 2,520 employees, about 1,907 of which are represented by the ATU.
4. Traffic congestion has steadily increased in the metro area over the past several years and continues to increase notwithstanding the current availability of buses and light rail.
5. The notification of intent to strike filed by the ATU states: "Union believes that a strike would interfere with the preservation of the public peace, health and safety."
6. On January 27, 2009, letters were sent to both parties notifying them of a conference call to be held on February 6, 2009 in order to determine whether a formal hearing should be held as opposed to the submission of formal briefs. It was requested that in the meantime both parties make a good faith effort to reach an agreement.

7. The conference call was held on February 6, 2009. During that call it was agreed that a formal hearing was to be held February 19, 2009. It was agreed that both parties waived the statutory twenty day Division of Labor response period for the strike notice. During this call timelines were establish regarding the submission of witness lists, formal briefs and rules of procedure. The Division again requested both parties make a good faith effort to reach an agreement.
8. A hearing was conducted at the offices of the Division of Labor on February 19, 2009. The ATU was represented by Mr. Thomas Buescher. The RTD was represented by Mr. Rolf Asphaug, Associate General Counsel. Both parties made statements and presented witnesses that provided information on how a strike could potentially interfere with the preservation of public peace, health and safety. Witnesses for the ATU were Ms. Julie Reisken, Executive Director of the Colorado Cross Disability Coalition; Mr. Patrick Rhodes, City of Denver Fire Fighter; Mr. Holman Carter, President and Business Agent ATU Local 1001; and Ms. Yvette Salazar, past president of ATU Local 1001. Witnesses for the RTD were Mr. Cal Marsella, General Manager RTD; Mr. Bruce Abel, Assistant General Manager Customer and Contracted Services; Mr. Phil Washington Assistant General Manager Administration; and Mr. John Tarbet Senior Manager Security and Emergency Management.
9. Members of the public commented as to how their lives were impacted during the strike of 2006 and how they might be impacted by a strike in 2009. In addition to other concerns, members of the public provided information about the impact of a strike and the availability of transit services for transit-dependent poor, youth, aged, students and employees as well as those transit-dependent for regular health care. Other public issues raised included the response time for police, fire and ambulance vehicles.

Conclusion of Law

1. RTD is an authority as defined in section 8-3-104(2), C.R.S. and operates a mass transportation system as defined in section 8-3-104(15), C.R.S.
2. ATU is a local union as defined in section 8-3-104(14), C.R.S
3. RTD and ATU are subject to the jurisdiction of the Department and the Division pursuant to title 8, Colorado Revised Statutes

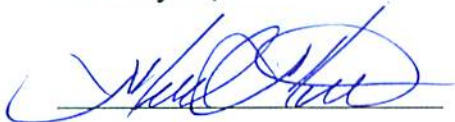
Order

Having considered the evidence presented by both parties and in light of the complex relationship between the public, the employer and the employees; I have concluded that a strike by the ATU would interfere with the preservation of the public peace, health and safety.

Therefore, pursuant to the authority given to me as the Director of the Division of Labor, in the Colorado Department of Labor and Employment by §8-3-113(3) and §8-3-112(2) it is hereby ordered that

1. The Amalgamated Transit Union Local 1001 request to strike against the Regional Transportation District is denied.
2. The ATU and the RTD shall each present to this office a list of five arbiters no later than March 6, 2009
3. An arbiter will be announced by March 13, 2009.
4. Arbitration will commence by March 27, 2009.
5. Arbitration will continue until completion of the hearing with the results being final and binding on all parties.
6. All costs incurred and associated with said arbitration shall be borne equally by the Amalgamated Transit Union Local 1001 and the Regional Transportation District
7. Any appeal as a result of this order may be filed in accordance with §8-3-112 (2).

February 24, 2009



Michael J. McArdle

Director, Division of Labor