

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ROBERT M. TEMPLE,	)	Civil Action No. _____
	)	
Plaintiff	)	
	)	
v.	)	
	)	
INTERNATIONAL BROTHERHOOD OF	)	
BOILERMAKERS, IRON SHIPBUILDERS,	)	
BLACKSMITHS, FORGERS AND HELPERS,	)	
LOCAL 154,	)	
	)	
Defendant.	)	JURY TRIAL DEMANDED
	)	
	)	(Electronically Filed)

COMPLAINT FOR DAMAGES AND EQUITABLE RELIEF

Plaintiff, by undersigned counsel, files this Complaint and in support thereof alleges as follows.

Introduction

Plaintiff has been a member of labor unions for over 25 years including as a member of Defendant Local 154 since 2006. Plaintiff believes in unions. Plaintiff believes that unions are necessary for working people. Plaintiff reluctantly files this Complaint because the Local 154 work referral system has not been operated fairly in the interests of all members. In this Complaint, he is asking that he recover wages he has lost. But he is also trying to improve the work referral system for all members. He is asking the Court to order an equitable remedy that work be referred in a non-arbitrary way in the interests of all members. A fair system will not cost one cent to any member, except those who benefit from arbitrary favoritism.

**JURISDICTION**

1. The jurisdiction of this court is invoked pursuant to the Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621, and 28 U.S.C. §1331 and 1343(a)(4); the National Labor Relations Act (NLRA), 29 U.S.C. 151 et seq., and 28 U.S.C. § 1337(a); and this Court's supplemental jurisdiction. This court has supplemental jurisdiction over the Plaintiff's state

law claims pursuant to 28 U.S.C. § 1367. Venue lies in this District pursuant to 28 U.S.C. § 1391.

### **PARTIES**

2. Plaintiff Robert M. Temple is an individual residing in Hancock County, West Virginia.
3. Defendant International Brotherhood of Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers And Helpers, Local 154 ("Local 154") is a labor organization within the meaning of the ADEA 29 U.S.C. § 630 (d) and within the meaning of the Pennsylvania Human Relations Act (PHRA) 43 P.S. § 954. Defendant has offices at 1221 Banksville Road, Pittsburgh, PA 15216.

### **FACTUAL BACKGROUND**

4. Plaintiff was born on October 3, 1946 and is 66 years of age in August 2013 when this Complaint was filed.
5. Defendant Local 154 is a "labor organization" within the meaning of Age Discrimination in Employment Act, the Pennsylvania Human Relations Act, and the National Labor Relations Act.
6. At all times relevant hereto, Defendant acted by and through its agents and servants and employees who were acting within the scope of their employment for the benefit of their employer.
7. Defendant Local 154 operates a union hiring hall.
8. In a union hiring hall, union members are not hired by the employer; Local 154 members obtain work assignments through a work referral system operated by the Defendant.
9. Local 154 union members generally work for multiple employers over the years.
10. Employers notify the Defendant when they need workers.
11. Defendant Local 154 maintains list(s) of members who are not working and who wish to be referred to work when it becomes available.
12. Defendant Local 154 has a referral list for journeyman boilermakers.
13. Defendant Local 154 has a referral list for apprentice boilermakers.

14. Defendant Local 154 does not have a referral list for trainees.
15. Plaintiff has been a member of Local 154 since approximately September 2006.
16. Plaintiff completed his apprenticeship classroom training.
17. In order to become a journeyman Boilermaker Plaintiff must work at least 6000 hours.

**Local 154 Referral System Has An Older Member Bias.**

18. As of the date of filing of this Complaint, Plaintiff has only worked 3,269 hours in the years he has been a dues paying member. About half of his hours worked was from work he received through another local - Local 667 In West Virginia.
19. Local 154 members who are less than 40 years of age have been referred to long-term jobs (jobs lasting 15 days or more) by Local 154 since on or about April 16, 2011 and continuing to the present.
20. Longer-term jobs offer steady work and may include overtime.
21. After taking a longer-term job, a member's name goes to the bottom of the appropriate work referral list when he or she reports for work again.
22. Ryan Temple, age 28, a nephew of Plaintiff, also started the apprenticeship program with Local 154 on or about the same day as Plaintiff.
23. However, Ryan Temple, has already worked over 6000 hours.
24. Greg Arner, approximately 40 years of age, joined Local 154 after Plaintiff,
25. Greg Arner has already worked over 6000 hours and is now a journeyman boilermaker.
26. When Plaintiff called Local 154 to find out about work, he was told that individuals like Greg Arner were in a "training program" but they were not called out to work based upon their location on a work list.
27. The training program was a new category of member created after Plaintiff became a member of Local 154.
28. Plaintiff has been a member of Local 154 longer than any trainee.

29. Nevertheless, a number of trainees who are less than 40 years of age have worked 6000 hours and are now journeyman boilermakers.

**Local 154 Referral System Plays Favorites:  
It's Not What You Know, But Who You Know.<sup>1</sup>**

30. Local 154 plays favorites when it comes to getting work.

31. Mark Angle is an employee of the Defendant.

32. Mark Angle works as one of Defendant's dispatchers

33. Dispatchers contact members when work is available.

34. Mark Angle has a personal friendship with Greg Arner.

35. Mark Angle has a personal friendship with Greg Arner's girlfriend.

36. Greg Arner and his girlfriend have invited Mark Angle to vacation with them at her condominium in Myrtle Beach, North Carolina.

37. Mark Angle accepted the invitation from Greg Arner and his girlfriend to stay at her condominium in Myrtle Beach, North Carolina.

38. Mark Angle has referred Greg Arner to work because of personal reasons.

39. Mark Angle has referred Greg Arner to work for arbitrary, personal reasons.

40. Defendant Local 154 refers some members to work over others (who should have been referred based upon their place on the out of work referral list(s)) for arbitrary, personal reasons.

41. Had Plaintiff been referred to work so that he could have completed his 6000 hours, he would have earned at least \$32 per hour for approximately 2700 hours for a total of approximately \$85,000, plus raises and interest.

42. Had Plaintiff been referred to work according to the referral list rules, he would have earned additional substantial sums in an amount to be proven at trial.

43. Plaintiff signed up for additional work - asked to have his name added to the out of work list- after his last layoff from a long-term job on or about April 19, 2011.

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<sup>1</sup> Of course, "Whom" not "Who," but sometimes grammar has to defer.

44. Plaintiff sent a letter dated January 14, 2012 to Business Manager Raymond Ventrone of Defendant Local 154 informing them him that he had just over 3000 hours of work, half of which were referred to him from a local in West Virginia, and asking that he be referred to long- term jobs.
45. Mr Ventrone did not respond in writing.
46. Mr Ventrone did not call Plaintiff.
47. No one from Local 154 responded to Plaintiff's letter.
48. As of June 26, 2012, plaintiff had not received any calls from Defendant referring him to any work.
49. On June 26, 2012, plaintiff sent a second letter to Business Manager Raymond Ventrone of Defendant Local 154 in which he complained of favoritism in the referral list system which is unfair to many members.
50. A meeting was eventually scheduled between defendant and plaintiff and respective counsel concerning the internal union complaint on October 26, 2012.
51. At that meeting, Plaintiff identified 5 trainees (including Greg Arner) who were less than 40 years of age and who had been members of the union for less time than the plaintiff but who had already achieved 6000 hours of work and journeyman status.
52. Union President John Hughes stated at the meeting that the five (5) individuals achieved journeyman status because they passed the common-arc welder test.
53. Union president John Hughes stated at the meeting that Plaintiff had not achieved journeyman status because he is not a common- arc welder.
54. Union president John Hughes also stated at the meeting that Greg Arner gets work because some companies specifically request him because "*...he is small and can work it hard to get at areas.*"
55. Plaintiff also reported at the meeting on October 26, 2012 that he was worried about returning to work (if he was ever called back to work) because he had heard from a member

that if their dues were increased because of his complaint “*somebody would get their ass kicked.*”

56. Plaintiff did not reveal the member’s name to the union because he was concerned about retaliation against the person.

57. However, Plaintiff did identify a retired truck driver who lives in his home town of Chester West Virginia who knows boilermakers in the area and who told plaintiff that he heard that those boilermakers wanted to “... *kick his ass.*”

58. At the October 26, 2012 meeting, Defendant Business Manager Ray Ventrone said that the union had never informed the membership that plaintiff had filed an administrative age discrimination complaint.

59. Nevertheless, individuals in Chester West Virginia apparently knew about his complaint and Plaintiff did not tell them.

60. On November 8, 2012, Defendant responded to Plaintiff’s internal complaint about the fairness of the work referral system.

61. In the November 8, 2012 letter from counsel for Defendant, the Defendant Local 154 denied the truth of the statements of Union President John Hughes.

62. Suddenly, after the October 26, 2012 meeting, Defendant Local 154’s work referral system must have changed because Local 154 started calling Plaintiff for work repeatedly after he had not received calls for work since April 19, 2011.

63. Furthermore, because of the threats he had heard of, and because of Local 154’s previous retaliation against members who complain about not getting work, Plaintiff has been and remains concerned about his safety.

**Favoritism In Selection of Union Stewards, Union Safety Persons  
And In Hiring Full time Paid Staff Persons.**

64. Local 154 also has a history of favoritism with respect to hiring staff members and selecting individuals who serve as union stewards or union safety persons on the job.

65. Local 154 officials can name any member as a union steward or as a union safety person regardless of the member’s position on the work referral list.

66. Any member designated as a union steward or as union safety person by Local 154 officials goes to work regardless of their position on the work referral list.
67. Some of Local 154's union stewards and union safety persons have worked for months at a time while other members sat at home without work.
68. Nevertheless, these union members sitting at home without work are required to pay regular monthly dues in order to remain on the work referral list.
69. In the past, members who were laid off only paid a nominal amount per month in union dues.
70. Some individuals named as union stewards or union safety persons by Local 154 officials are so named for arbitrary and personal reasons.
71. Not all union members have an equal chance to be named as a union steward or union safety person.
72. Nor do rank and file union members have an equal chance to apply for full time Local 154 staff positions.
73. A brother of Defendant Local 154 business manager Ray Ventrone was hired as a full-time union dispatcher working in the office.
74. Other relatives of Defendant Local 154 business manager Ray Ventrone were hired as office staff for Local 154.
75. The aforementioned conduct violates Defendant Local 154's duty of fair representation to operate the work referral list and the local union in the interests of the entire membership equally.

#### **INJURIES TO PLAINTIFF**

76. As a direct and proximate result of the above actions, Plaintiff suffered the following injuries:
  - a. a loss of pay and any resulting losses in his pension benefits.;
  - b. severe inconvenience;
  - c. a loss of enjoyment of life and life's pleasures; and
  - d. emotional pain and distress.

**CAUSES OF ACTION**

**COUNT I**

**Age Discrimination  
Age Discrimination in Employment Act (ADEA)**

77. The Plaintiff incorporates herein the matters pleaded at ¶¶ 1 through 76 above as though more fully set forth at length herein.
78. Plaintiff has exhausted his administrative remedies under the ADEA.

WHEREFORE, Defendant Local 154 discriminated against Plaintiff because of Plaintiff's age in violation of the Age Discrimination in Employment Act.

**COUNT II**

**Age Discrimination  
Pennsylvania Human Relations Act**

79. The Plaintiff incorporates herein the matters pleaded at ¶¶ 1 through 76 above as though more fully set forth at length herein.
80. Plaintiff has exhausted his administrative remedies under the PHRA.

WHEREFORE, Defendant Local 154 discriminated against Plaintiff because of Plaintiff's age in violation of the Pennsylvania Human Relations Act.

**COUNT III**

**Violation of the Duty of Fair Representation  
National Labor Relations Act**

81. The Plaintiff incorporates herein the matters pleaded at ¶¶ 1 through 76 above as though more fully set forth at length herein.
82. Plaintiff has exhausted his internal union remedies.
83. Defendant has violated its Duty of Fair Representation because it failed to refer Plaintiff to work when he otherwise should have been referred but was not referred for arbitrary personal reasons.

WHEREFORE, Defendant violated its Duty of Fair Representation in violation of the National Labor Relations Act.



**REQUESTED RELIEF**

84. The Plaintiff incorporates herein the matters pleaded at ¶¶ 1 through 71 above as though more fully set forth at length herein.

WHEREFORE, Plaintiff demands judgment against the Defendant pursuant to the Age Discrimination in Employment Act, the Pennsylvania Human Relations Act and the National Labor Relations Act, as follows:

- a Award Plaintiff monetary damages for lost pay and loss of benefits including but not limited to contributions to his pension, plus interest;
- b Award Plaintiff compensatory damages in an amount to be proven at trial;
- c Award Plaintiff a reasonable attorney fee and costs to be paid by the Defendant;
- d Order Defendant Local 154 officials to eliminate personal arbitrary favoritism in the operation of the work referral list.
- e Grant such other equitable and legal relief as may be just and proper.

Respectfully submitted,

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