

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 02-2410

Kathleen A. Cochrane,

Appellant,

v.

National Association of Letter
Carriers, AFL-CIO, Local Division,
Branch 352; United States Postal
Service,

Appellee.

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* Appeal from the United States
* District Court for the
* Southern District of Iowa.
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* **[UNPUBLISHED]**
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Submitted: November 29, 2002

Filed: December 3, 2002

Before LOKEN, BYE, and RILEY, Circuit Judges.

PER CURIAM.

Kathleen Cochrane brought this action against her former employer, the United States Postal Service (USPS), and her former union, the National Association of Letter Carriers, and its Local Division, Branch 352 (collectively NALC), alleging that USPS had violated its collective bargaining agreement with NALC, and that NALC

had breached its duty to fairly represent her. The district court¹ granted summary judgment to USPS and NALC, and Cochrane appeals. After careful review of the record, we affirm.

The evidence before the district court did not create a genuine issue of material fact on whether NALC had breached its duty of fair representation. First, the record fails to show arbitrary conduct by NALC. Instead, the evidence demonstrates that NALC investigated Cochrane's claim, and concluded, based upon its interpretation of the collective bargaining agreement and the circumstances of Cochrane's case, that she did not have a grievable complaint. Further, there is no evidence that NALC acted in bad faith or with discriminatory intent. See Schmidt v. Int'l Bhd. of Elec. Workers, Local 949, 980 F.2d 1167, 1170 (8th Cir. 1992).

As Cochrane was required to show a breach of the duty of fair representation to prevail against either defendant, see Scott v. United Auto., Local 879, 242 F.3d 837, 840 (8th Cir. 2001), summary judgment was also appropriate on her claim against USPS for breach of the collective bargaining agreement, see Buford v. Runyon, 160 F.3d 1199, 1203 (8th Cir. 1998).

Accordingly, we affirm.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.

¹The HONORABLE ROBERT W. PRATT, United States District Judge for the Southern District of Iowa.