ABOUT THE WEEKLY SUMMARY

The Weekly Summary of NLRB cases, as the name implies, is a publication that summarizes each week all published NLRB decisions in unfair labor practice and representation election cases, except for summary judgment cases. It also lists all decisions of NLRB administrative law judges and direction of elections by NLRB regional directors. Links are established from the weekly summary index to the summaries and from the summaries to the full text of the decisions.

Weekly Summary of NLRB Cases

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February 11, 2000 W-2725

CASES SUMMARIZED

SUMMARIES CONTAIN LINKS TO FULL TEXT

Central Brooklyn Coordinating Council, Brooklyn, NY
Laborers Local 320, Portland, OR
Letter Carriers Branch 3126, Troy, MI

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Laborers Local 320 (Northwest Natural Gas) (36-CD-217, 218; 330 NLRB No. 86) Portland, OR Jan. 31, 2000. Relying on collective-bargaining agreements, Employer preference and past practice, area and industry practice, relative skills and training, and efficiency and economy of operations, the Board decided that employees of Northwest Natural Gas who are represented by Plumbers Local 290 are entitled to perform the work in dispute. The disputed work involves all unskilled "laborer's" work on the Mist Feeder Loop gas pipeline project, including, but not limited to, swamping, skidding, sandbagging, stringing, drilling, and pipe wrapping, but excluding work covered under the Teamsters and Operating Engineers collective-bargaining agreements. [HTML] [PDF]

(Members Fox, Liebman, and Hurtgen participated.)

* * *

Letter Carriers Branch 3126 (U.S. Postal Service) (7-CB-11194(P), et al.; 330 NLRB No. 85) Troy, MI Jan. 31, 2000. The Board held, in agreement with the administrative law judge, that the Respondent violated Section 8(b)(1)(A) of the Act by refusing to file and process a grievance about overtime for Joe Pitlanish because of his nonmember status. Contrary to the judge, it held that the Respondent violated Section 8(b)(2) and (1)(A) when union steward Greg Swindall told a supervisor, in the presence of a unit employee, not to assign penalty overtime to Pitlanish. [HTML] [PDF]

Members Fox and Liebman modified the judge's recommended Order to provide, in accordance with *Iron Workers Local 377 (California Iron Workers Employers Council)*, 326 NLRB No. 54 (1998), that if the Respondent cannot pursue Pitlanish's grievance through the contractual procedure, a make-whole remedy will be imposed only if the General Counsel shows in compliance the meritoriousness of the grievance if it had been properly pursued by the Respondent. If the General Counsel makes the required showing, the Respondent shall only be obligated to make Pitlanish whole for any increase in damages he suffered as a consequence of the Respondent's refusal to process the grievance. Members Fox and Liebman also required the Respondent to bear the reasonable costs of an attorney of Pitlanish's choosing to represent him at any grievance proceedings, including arbitration, that may take place.

For the reasons set forth in his dissenting opinion in Iron Workers Local 377, Member Hurtgen said he "would adhere to the Board's established policy of seeking full relief for victims of unfair labor practices and not the 'half-a-loaf' relief my colleagues would afford to victims of this type of 8(b)(1)(A) violation."

(Members Fox, Liebman, and Hurtgen participated.)

Charges filed by Joe Pitlanish; complaint alleged violation of Section 8(b)(1)(A) and 8(b)(2). Hearing at Detroit, Aug. 20-21, 1998. Adm. Law Judge George Carson II issued his decision Sept. 30, 1998.

* * *

Central Brooklyn Coordinating Council (29-CA-22180; 330 NLRB No. 88) Brooklyn, NY Jan. 31, 2000. No exceptions were filed to the administrative law judge's findings that the Respondent violated Section 8(a)(3) and (1) of the Act by accelerating the date of discharge of eight caseworkers and three case-aids because of their activity for State, County and Municipal Employees District Council 1707, and that the employees would have been discharged shortly thereafter for nondiscriminatory reasons. [HTML] [PDF]

The Respondent is a not for profit corporation that provides a variety of social service functions under contract with agencies of New York. The judge found that the Respondent, in order to retain funding, had to comply with New York State law that required all caseworkers to possess a 4-year degree from an accredited college or university. The eight caseworkers all lacked this credential, and so the Respondent would have discharged them subsequently in order to retain funding. There was no requirement that the three case-aids possess degrees. The judge found that the Respondent would have terminated them subsequently for financial reasons.

The Charging Party excepted to the judge's recommended remedy, contending that he unduly limited the backpay award for the discriminatees. Citing *Keeshin Charter Service*, 250 NLRB 780, 781 (1980), the Board found that the backpay period for the caseworkers should run from the date of unlawful discharge until the date they would have been otherwise discharged, absent their protected activity. Backpay for the case-aids should run from the date of their discharge until the date they would have been discharged for economic reasons.

(Chairman Truesdale and Members Hurtgen and Brame participated.)

Charge filed by America Fajardo-Wyatt; complaint alleged violation of Section 8(a)(1) and (3). Hearing at Brooklyn, March 16-17, 1999. Adm. Law Judge Raymond P. Green issued his decision May 13, 1999.

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LIST OF DECISIONS OF ADMINISTRATIVE LAW JUDGES

Detroit Neswpaper Agency, d/b/a Detroit Newspapers (Teamsters Local 372) Detroit, MI February 3, 2000. 7-CA-40359, et al.; JD-15-00, Judge Robert T. Wallace.

Mid-South Drywall Co., Inc. (Carpenters) Little Rock, AR February 2, 2000. 26-CA-19287, 19296 and 26-RC-8099; JD (ATL)-09-00, Judge Keltner W. Locke.

Wake Electric Membership (Electrical Workers IBEW Local 553) Wake Forest, Zebulon, Oxford, Louisburg and Youngsville, NC February 2, 2000. 11-CA-18297 and 11-RC-6322; JD(ATL)-5-00, Judge Howard I. Grossman.

Emery Air Freight Corporation d/b/a Emery Worldwide, a CNF Company (Teamsters Local 657) Brownsville, TX February 2, 2000. 16-CA-19930-1, et al.; JD(ATL)-3-00, Judge William N. Cates.