



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 6
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RM 904
PITTSBURGH, PA 15222-4111

Agency Website: www.nlr.gov
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August 4, 2011

AMERICAN POSTAL WORKERS UNION, LOCAL 227

[REDACTED]
PO BOX 7222
NEW CASTLE, PA 16107-7222

Re: UNITED STATES POSTAL SERVICE
CASE 06-CA-036441

Dear [REDACTED]:

We have carefully investigated and considered your charge that UNITED STATES POSTAL SERVICE has violated the National Labor Relations Act and the Postal Reorganization Act.

This office, on July 31, 2009, administratively deferred further action on the charge in the above matter for arbitration of the underlying dispute pursuant to the grievance-arbitration procedures of the applicable collective-bargaining agreement. On November 5, 2010, Arbitrator [REDACTED] issued an award resolving the instant dispute.

The issues of whether the arbitrator was presented with the statutory issue and fully considered that issue, whether the arbitrator's rulings were consistent with those principles in light of the facts, and whether the arbitrator's rulings were reasonable in light of the facts were thoroughly reviewed. There was no contention that the arbitration proceedings were procedurally defective.

Decision to Dismiss:

As a result of a review of the arbitration proceeding and award and the Charging Party's contention, I have concluded that further proceedings on the charge are not warranted for the following reasons:

Arbitrator [REDACTED] was presented with the statutory issue. She fully considered that issue. Her analysis was consistent with statutory principles in determining whether the Employer's actions were discriminatorily motivated, and her conclusions were reasonable in light of the facts presented to her. After she carefully considered and addressed each of the Union's contentions, Arbitrator [REDACTED] concluded that the Employer's actions were justified and would have occurred even in the absence of protected concerted activity. Thus, the award is

not repugnant to the Act, and it satisfies the standards set forth in [Spielberg Mfg. Co.](#), 112 NLRB 1080 (1955) and [Olin Corp.](#), 268 NLRB 573 (1984).

I am, therefore, refusing to issue complaint and dismissing the charge in this matter.

Means of Filing: An appeal may be filed electronically, by mail, or by delivery service. Filing an appeal electronically is preferred but not required. The appeal MAY NOT be filed by fax. To file an appeal electronically, go to the Agency's website at www.nlr.gov, click on **File Case Documents**, enter the NLRB Case Number, and follow the detailed instructions. To file an appeal by mail or delivery service, address the appeal to the General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1099 14th Street, N.W., Washington D.C. 20570-0001. Unless filed electronically, a copy of the appeal should also be sent to me.

Appeal Due Date: The appeal is due on August 18, 2011. If you file the appeal electronically, we will consider it timely filed if you send the appeal together with any other documents you want us to consider through the Agency's website so the transmission is completed by **no later than 11:59 p.m. Eastern Time** on the due date. If you mail the appeal or send it by a delivery service, it must be received by the Office of Appeals in Washington, D.C. by the close of business at **5:00 p.m. Eastern Time** or be postmarked or given to the delivery service no later than August 17, 2011.

Extension of Time to File Appeal: Upon good cause shown, the General Counsel may grant you an extension of time to file the appeal. A request for an extension of time may be filed electronically, by fax, by mail, or by delivery service. To file electronically, go to www.nlr.gov, click on **File Case Documents**, enter the NLRB Case Number and follow the detailed instructions. The fax number is (202)273-4283. A request for an extension of time to file an appeal **must be received on or before the original appeal due date**. A request for an extension of time that is mailed or given to the delivery service and is postmarked or delivered to the service before the appeal due date but received after the appeal due date will be rejected as untimely. Unless filed electronically, a copy of any request for extension of time should be sent to me.

Confidentiality: We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required

by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,

MARK WIRICK
ACTING REGIONAL DIRECTOR

Enclosure

cc: GENERAL COUNSEL
OFFICE OF APPEALS
FRANKLIN COURT BUILDING
NATIONAL LABOR RELATIONS
BOARD
1099 14TH STREET, NW
WASHINGTON, DC 20570

UNITED STATES POSTAL SERVICE
[REDACTED]
435 S CASCADE ST
NEW CASTLE, PA 16108-9001

UNITED STATES POSTAL SERVICE
[REDACTED]
LAW DEPT. - PHILA. FIELD OFFICE
P. O. BOX 40595
PHILADELPHIA, PA 19197-0595

UNITED STATES POSTAL SERVICE
[REDACTED]
USPS LAW DEPARTMENT
615 CHESTNUT STREET
P. O. BOX 40595
PHILADELPHIA, PA 19197-0595

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UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

APPEAL FORM

To: General Counsel
Attn: Office of Appeals
National Labor Relations Board
Room 8820, 1099 - 14th Street, N.W.
Washington, DC 20570-0001

Date:

Please be advised that an appeal is hereby taken to the General Counsel of the National Labor Relations Board from the action of the Regional Director in refusing to issue a complaint on the charge in

Case Name(s).

Case No(s). *(If more than one case number, include all case numbers in which appeal is taken.)*

(Signature)