



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 22  
20 WASHINGTON PL  
FL 5  
NEWARK, NJ 07102-3127

Agency Website: [www.nlr.gov](http://www.nlr.gov)  
Telephone: (973)645-2100  
Fax: (973)645-3852

April 29, 2013

[REDACTED]  
17 ACADEMY ST  
NEWARK, NJ 07102-2923

Re: A+ B HVAC SERVICES, INC., a  
SUBSIDIARY OF MECHANICAL  
DEGREES, INC.  
Case 22-CA-093446

Dear [REDACTED]:

We have carefully investigated and considered your charge that A+ B HVAC SERVICES, INC. A SUBSIDIARY OF MECHANICAL DEGREES, INC. has violated the National Labor Relations Act.

**Decision to Partially Dismiss:** The evidence adduced by the investigation is insufficient to establish your contention that the Employer discharged [REDACTED] because of their activities on behalf of Sheet Metal Workers Local Union 25 ("the Union"). In this regard, the investigation revealed insufficient evidence that the Employer's decision to lay off and/or terminate the named individuals was motivated by anti-union hostility, rather than, as it contends, by a lack of available work. It is the Union's contention that the Employer was aware of the employees' union activities and that it had an abundance of work available for the employees when it terminated them. However, the investigation revealed insufficient evidence of Employer hostility towards employees because of their union activities, or that the Employer's professed justification for the discharges, namely a decrease in the amount of available work, was pretextual. Moreover, the investigation revealed that the Employer's selection method was based on the employees' relative seniority. Under the circumstances, it cannot be concluded that the discharges were unlawfully motivated.

With regard to the remaining allegations, this is to confirm that a Complaint and Notice of Hearing will be issued under separate cover.

**Your Right to Appeal:** You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals. If you appeal, you may use the enclosed Appeal Form, which is also available at [www.nlr.gov](http://www.nlr.gov). However, you are encouraged to also submit a complete statement of the facts and reasons why you believe my decision to dismiss your charge was incorrect.

**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](http://www.nlr.gov), click on **E-File 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 **May 13, 2013**. 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 May 12, 2013.

**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](http://www.nlr.gov), click on **E-File 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 May 13, 2013**. 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,

/s/ J. Michael Lightner

J. Michael Lightner  
Regional Director

Enclosure

A+ B HVAC SERVICES, INC., a  
SUBSIDIARY OF MECHANICAL  
DEGREES, INC.  
Case 22-CA-093446

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April 29, 2013

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

[REDACTED]

440 BARELL AVE  
CARLSTADT, NJ 07072-2810

[REDACTED]

26 WORLDS FAIR DR  
SOMERSET, NJ 08873-1359

[REDACTED]

ONE NEWARK CENTER  
8TH FL  
NEWARK, NJ 07102

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

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Case Name(s).

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

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*(Signature)*