

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
Division of Judges

AMALGAMATED TRANSIT UNION LOCAL
NO. 1498 (JEFFERSON PARTNERS L.P.)

Respondent

and

RAYMOND JONES

Charging Party

Case 18-CB-086687

EXCEPTIONS ON BEHALF OF
THE ACTING GENERAL COUNSEL

On April 4, 2013, Administrative Law Judge Ira Sandron issued a Decision¹ in this case. General Counsel files these Exceptions to the following findings and conclusions of that Decision, with a separate Brief in Support of Exceptions filed this same day:

1. To the finding that John Moore received the B Mechanic position in December 2010 even though he was not the most senior employee that bid on the position. (ALJD p. 3, lines 5-6, 11-14, 20-23, p. 8, lines 7-9, p. 15, lines 2-3.)

¹ References to the Administrative Law Judge's Decision will be designated as "ALJD p. __, lines __."

2. To the finding that the Employer hired an individual named Chris from outside the company to fill an A Mechanic position over a current employee. (ALJD p. 3, lines 37-39, p. 8, lines 27-29, p. 15, lines 1-2.)

3. To the conclusion that seniority was not the only factor the Employer used in awarding positions through the semi-annual and vacancy bidding process. (ALJD p. 3, lines 21-23, p. 8, lines 7-9, p. 15, lines 2-3.)

4. To the conclusion that there was insufficient record evidence concerning the Employer's reasons for denying Jones' 2010 C Mechanic bid. (ALJD p. 5, lines 14-16, 18-20, p. 14, lines 42-44.)

5. To the conclusion that there was insufficient record evidence concerning evidence of prior arbitration awards involving the contractual provisions at issue. (ALJD p. 5, lines 24-26, p. 14, lines 38-46.)

6. To the conclusion that there was insufficient record evidence concerning evidence of how often the Employer used ads and selected outside employees over current maintenance employees who bid. (ALJD p. 3, lines 34-37, p. 5, lines 20-22, p. 14, lines 38-46, p. 15, lines 4-6.)

7. To the conclusion that Respondent could not prove the existence of a past practice beyond a reasonable doubt. (ALJD p. 15, lines 13-15.)

8. To the failure to draw any adverse inference from the fact that Respondent presented absolutely no evidence rebutting the existence of a consistent past practice. (ALJD pp. 14-15.)

9. To the failure to consider and address General Counsel's contention that even if an arbitrator did not find a past practice of only considering seniority, Respondent still would have won at arbitration because Jones was qualified. (ALJD pp. 14-15.)

10. To the conclusion that General Counsel has not met its burden of showing by a preponderance of the evidence that Respondent would have been successful had it taken Jones' grievance to arbitration. (ALJD p. 5, lines 11-14, p. 15, lines 17-20.)

11. To the conclusion that a provisional or a conditional make-whole remedy is not appropriate. (ALJD p. 15, lines 20-21, 38-39.)

12. To the Order to the extent that it does not provide for a Notice to Members and Employees to be mailed to all bargaining unit employees, as requested in the orally amended complaint. (ALJD pp. 16-17; Tr. 10.)

13. To the Order to the extent that it does not provide for a remedy for the increase in damages in the form of lost wages due to Respondent's mishandling of Jones' meritorious grievance. (ALJD pp. 16-17.)

Dated: May 2, 2013

Respectfully submitted,

/s/ Chinyere C. Ohaeri

Chinyere C. Ohaeri
Counsel for the Acting General Counsel
National Labor Relations Board, Region 18
330 South Second Avenue, Suite 790
Minneapolis, MN 55401