

03/13/2013

Executive Secretary

National Labor Relations Board

1099 14th street, NW Washington, DC 20570-0001

Re: Case No. 27-RD-098712

REQUEST FOR REVIEW

BACKGROUND:

On February 20, 2013 the decertification petition was filed with the NLRB.

On February 22, 2013 ORDER TO SHOW CAUSE was received from the NLRB.

On February 28, 2013 ORDER DISMISSING PETITION was received, the NLRB found the Tentative Agreement was intended to be a complete and final agreement.

ARGUMENT:

Is the "Tentative Agreement" (TA) entered into by the Union and Employer on January 24, 2013, a contract that bars further processing of the petition.

DISCUSSION:

Local 111 sent a letter to the collective bargaining unit, employees of Sears district 8181. Dated January 29, 2013, referencing to collective bargaining agreement ratification meetings and dates. (Attachment A) On page 3 find in bold and underlined per the union : **ACCEPT THE NEW TENTATIVE AGREEMENT?** Or your only other option is to: **GO ON STRIKE?** Next find Tentative Agreement dated January 24, 2013 (Attachment B) **ARTICLE 111 NO STRIKE NO LOCKOUT** section 2. Word for word it reads. It is therefore understood and agreed by the Union, its officers, agents, employees, representatives, stewards, members and all technicians/associates covered by this agreement and the company, that in the best interests of both parties, there shall be no strikes, slowdowns, sympathy strikes, work slowdown, work stoppages, interruption of production or suspension of work, refusals to perform work, boycotts, labor holidays other than those provided in this Agreement, continuous meetings or concerted mass sickness, picketing, or any other denial of services or any other activity which would interfere with the

Company's operations in any manner or the provision of service to its customers or any other stoppages of work whatsoever during the period this Agreement is in force(hereinafter "work stoppage").

RELEVANT FACTOR:

The NLRB found the tentative agreement was intended to be a complete and final agreement, **the agreement was breached by the union, when the union asked the collective bargaining unit to go on strike.**

Legal definition for breach of contract, failing to perform any term of a contract without a legitimate legal excuse.

The non-breaching party is relieved of their obligations under the contract by the other party's breach.

Conclusion:

From the Facts presented in attachment A and B.

From the argument presented by the Union: (see page 4 from the Unions response to the order to show cause)" It is a complete and fully articulated collective bargaining agreement, distinct from the final document only in its title, its footer, and the page on which it will ultimately be signed"

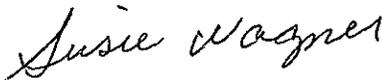
From the NLRB: The TA was intended to be a complete and final agreement between the parties.

IN SHORT: THE TA IN QUESTION WAS DATED JANUARY 24, 2013, THE UNION CONSIDERED A BINDING CONTRACT. THE LETTER DATED JANUARY 29, 2013 SENT TO THE EMPLOYEES READS "ACCEPT THE NEW TA OR YOUR ONLY OTHER OPTION IS TO GO ON STRIKE" (5 DAYS LATER THE UNION BREACHED ITS OWN CONTRACT)

IF THE EVIDENCE PROVIDED SHOWS THAT THE TA WAS A BINDING CONTRACT, THEN THE EVIDENCE PROVIDED ALSO SHOWS THAT THE UNION IS IN BREACH OF CONTRACT.

THE CONTRACT BAR SHOULD BE REMOVED FROM THE PETITION.

Sincerely,



Susie Wagner