UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION ONE

INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL 25,	)	Case No.: 01-CB-010882
and	)	
DENISE AVALLON, An Individual.	)	

REPLY TO THE COUNSEL FOR THE GENERAL COUNSEL'S OPPOSITION TO RESPONDENT'S CROSS EXCEPTIONS

Respondent Teamsters Local 25's ("Respondent") maintains that the General Counsel ("GC") has not satisfied its burden of showing that Denise Avallon's ("Avallon") decision to resign from interim employment at Tri-Town Reality was reasonable. The GC offers much speculation, but little evidence, to support its claims that Avallon responsibly quit her interim employment at Tri-Town Reality.

It is inconsistent for the GC to suggest that Avallon was reasonably justified in quitting her position at Tri-Town Reality for two reasons. First of all, Respondent's Referral Rules clearly state that placement on the Casual List *does not guarantee employment*. (GC-3, p.5, GC-2, p.6). Ironically, this matter stems from the GC's complaint that Respondent did not strictly follow its Referral Rules. Now when Respondent has promulgated, distributed and notified employees that placement on the casual list would not guarantee employment, the GC apparently takes the position that the Rules can be ignored. There is clear evidence in the record that Avallon had received and was familiar with Respondent's Referral Rules.[1] Here a finding that Avallon was reasonably justified in quitting interim employment contradicts Respondent's Referral Rules.

[1] In her March 19 2008 appeal to Respondent, she cites provisions from Respondent's Referral Rules. (Respondent's Exhibit 13).

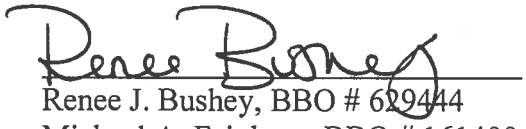
Furthermore, and perhaps most importantly, at the time that Avallon made the decision to quit Tri-Town Realty, the decision was based upon nothing more than the fact that she "heard" there was a lot of work in the movies. (Tr. 177). Again, there is no evidence in the record of who she heard the information from and in what context. Obviously, Avallon did not have the benefit of either Administrative Law Judges' ("ALJ") decision at the time she made the decision to quit, so reliance upon the prior ALJ's decision is nothing more than a *post hoc* rationalization of the decision. Without any evidence to determine whether it was reasonable for Avallon to rely on what she "heard" at the time, it was clearly an error to find that the decision was reasonable because it may have later been shown to be correct.

Second, despite the GC's arguments to the contrary, Avallon's stated reason for quitting interim employment negates a potion of the GC's claim for back pay. Avallon is claiming that she had to quit her position at Tri-Town Reality in order to be available to work in the movies, but Avallon did not leave her position at Tri-Town Reality until late April. If Avallon was not available to work in the movies until late April of 2008, the GC is not justified in seeking back pay starting in March of 2008.

Finally, this case must be distinguished by the cases cited by the GC because Avallon was working at Tri-Town Realty before she ever had any work in the movie industry under Respondent's Referral Rules. It strains logic to suggest that Avallon's interim employment was not suitable for her because she had the position *prior* to seeking work in the movie industry. None of the cases that the GC cites for the principle that a discriminate is not obligated to continue in a non-equivalent position (GC Opposition, n. 4) involve a situation where an employee quit in anticipation of the discriminatory treatment. Here the wages and conditions at Tri-Town were accepted by Avallon before she ever sought work in the movies.

Accordingly, Avallon's loss of the Tri-Town Realty position was a willful loss of employment not attributable to Respondent and the ALJ's decision on this point should be reversed.

Respectfully submitted,
For Respondent,
International Brotherhood of Teamsters,
Local 25,
By its Attorneys,



Dated: June 25, 2014

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CERTIFICATE OF SERVICE

I hereby certify that on June 25, 2014, a true and correct copy of the foregoing document was served via First Class Mail on:

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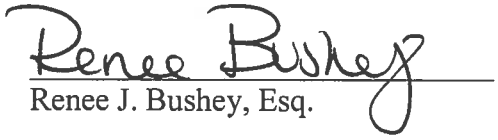

Dated June 25, 2014

Renee J. Bushey, Esq.