

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

EASTERN ESSENTIAL SERVICES, INC.

Petitioner,

v.

Case No.: 16-1165

NATIONAL LABOR RELATIONS BOARD,

Respondent.

PETITIONER'S STATEMENT OF
ISSUES TO BE RAISED

Pursuant to this Court's Order dated June 10, 2016, Eastern Essential Services, Inc. ("Eastern") hereby files this Statement of Issues to be Raised:

STATEMENT OF ISSUES TO BE RAISED

1. Whether the Board erred in finding that General Counsel met his burden to show that Eastern's failure to hire the incumbent employees at 120 Mountainview was discriminatorily motivated, where such a finding is not supported by substantial evidence in the record, and the Board departed, without reasoned explanation, from its own precedent.
2. Whether the Board erred in finding that General Counsel met his burden to show that Eastern's failure to hire the incumbent employees at One Meadowlands Plaza was discriminatorily motivated, where such a finding is not supported by substantial evidence in the record, and the Board departed, without reasoned explanation, from its own precedent.
3. Whether the Board erred in finding that General Counsel met his burden to show that Eastern's failure to hire the incumbent employees at 300 Lighting Way was discriminatorily motivated, where such a finding is not supported by substantial evidence in the record, and the Board departed, without reasoned explanation, from its own precedent.

4. Whether the Board erred in finding that there was evidence of substantial union animus at 120 Mountainview, where such finding is not supported by substantial evidence in the record, and the Board departed, without reasoned explanation, from its own precedent.
5. Whether the Board erred in finding that there was evidence of substantial union animus at One Meadowlands Plaza, where such finding is not supported by substantial evidence in the record, and the Board departed, without reasoned explanation, from its own precedent.
6. Whether the Board erred in finding that there was evidence of substantial union animus at 300 Lighting Way, where such finding is not supported by substantial evidence in the record, and the Board departed, without reasoned explanation, from its own precedent.
7. Whether the Board erred in finding that Eastern conducted its hiring practice at 300 Lighting Way in a manner intended to preclude the incumbent employees from being hired, contrary to a practice of hiring incumbent employees on request by a building owner, where such a finding is not supported by substantial evidence in the record.
8. Whether the Board erred in finding that Eastern's failure to hire incumbent employees was discriminatorily motivated because three (3) incumbent employees were not given applications where such a finding is not supported by substantial evidence in the record.
9. Whether the Board erred in finding that Eastern failed to meet its rebuttal burden to show that it would not have hired the incumbent employees at 120 Mountainview even in the absence of an unlawful motive, where such a finding is not supported by substantial evidence in the record, and the Board departed, without reasoned explanation, from its own precedent.
10. Whether the Board erred in finding that Eastern failed to meet its rebuttal burden to show that it would not have hired the incumbent employees at One Meadowlands Plaza even in the absence of an unlawful motive, where such a finding is not supported by substantial evidence in the record, and the Board departed, without reasoned explanation, from its own precedent.
11. Whether the Board erred in finding that Eastern failed to meet its rebuttal burden to show that it would not have hired the incumbent employees at 300

Lighting Way even in the absence of an unlawful motive, where such a finding is not supported by substantial evidence in the record, and the Board departed, without reasoned explanation, from its own precedent.

12. Whether the Board erred in finding that Eastern failed to meet its rebuttal burden to show that it would not have hired the incumbent employees even in the absence of an unlawful motive by failing to notify the Union or the incumbent employees that it does not hire incumbent employees, where such a finding is not supported by substantial evidence in the record and Eastern had no legal obligation to do so.

13. Whether the Board erred in finding that Eastern was a legal successor at 120 Mountainview where such a finding is not supported by substantial evidence in the record, and the Board departed, without reasoned explanation, from its own precedent.

14. Whether the Board erred in finding that Eastern was a legal successor at One Meadowlands Plaza where such a finding is not supported by substantial evidence in the record, and the Board departed, without reasoned explanation, from its own precedent.

15. Whether the Board erred in finding that Eastern was a legal successor at 300 Lighting Way where such a finding is not supported by substantial evidence in the record, and the Board departed, without reasoned explanation, from its own precedent.

Respectfully submitted,

/s/ Steven S. Glassman

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Dated: July 11, 2016