

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

ALSTATE MAINTENANCE LLC

Respondent

and

Case 29-CA-117101

TREVOR GREENIDGE, an Individual

Charging Party

GENERAL COUNSEL'S EXCEPTIONS TO
THE ADMINISTRATIVE LAW JUDGE'S
DECISION

Pursuant to Section 102.46 of the Rules and Regulations of the National Labor Relations Board, Counsel for the General Counsel files the following exceptions to the Decision of Administrative Law Judge Raymond P. Green, which issued on June 24, 2016:

<u>Exception Number</u>	<u>Page</u>	<u>Line</u>	<u>Exception</u>
1	2	11-12	Finding, without basis in law or fact, that skycaps earned a "minimum wage for tipped employees."
2	2	13-14	Finding, without basis in law or fact, that skycap tips "more than compensate" for skycaps' low hourly wage.
3	2	26-27	Finding, without basis in law or fact, that skycaps should have assisted the driver of the equipment truck to unload the luggage.
4	2	31-32	Finding, without basis in law or fact, that skycaps "refused to do their jobs."
5	2	31-32 34-36	Ignoring credible evidence that skycaps performed the job in "record time."
6	6 7	45-49 1-14	Failing to find that discriminatee Trevor Greenidge engaged in protected concerted activity
7	6 7	45-49 1-14	Failing to apply the Board's structured analysis of what constitutes protected concerted activity

8	6 7	42-49 1-3	Conflating the “analytically distinct” elements of “concerted” and “for the purposes of mutual aid and protection”
9	7	5-14	Failing to find that Greenidge’s comments about the skycaps’ group tip was for the “purpose of mutual aid or protection”
10	7	5-14	Finding, without basis in law or fact, that skycap tips were not related to terms and conditions of employment
11	7	5-14	Finding, without basis in law or fact, that Respondent does not pay tips directly to the skycaps
12	5 6	41-50 1-15	Relying on two inapposite cases – <i>Waters of Orchard Park</i> and <i>Metro Transport</i> – to find that Greenidge’s comment about group tips was not for the “purpose of mutual aid or protection”
13	2 6	16-18, 22-24 44-47	Failing to find that Greenidge engaged in concerted activity
14	5	20-35	Ignoring seminal board law that speaks to concerted activity
15	5	32-35	Relying on an erroneous reading of <i>NLRB v. Adams Delivery Services</i> , 623 F.2d 96 (9th Cir. 1980) to find that Greenidge’s comment about group tips was not concerted
16	5 6	20-35 45-47	Failing to find that Greenidge’s comment about the skycaps’ tips was inherently concerted
17	2 6	16-18, 22-24 44-47	Ignoring uncontroverted evidence that Respondent’s skycap supervisor Cebon Crawford was present when Greenidge raised concerns about the skycaps’ group tips
18	2 62 6	16-18, 22-24 44-47 22-24 44-47	Ignoring uncontroverted evidence that Greenidge’s comment about the skycaps’ group tip prompted Crawford to intervene on the skycaps’ behalf
19	6	42-48	Ignoring the uncontroverted evidence that Respondent believed that Greenidge and his fellow skycaps acted in

			concert to address their common concern about tips
20	4 6	34-44 45-49	Failing to consider and give proper weight to the evidence that Respondent discharged all four skycaps based on Greenidge's comment about group tips
21	6	47-48	Erroneously characterizing Greenidge's comment as an offhand gripe
22	7	11-12	Erroneously characterizing skycaps' concerns about tips as a "dispute" with Respondent's customers and not with Respondent
23	2	36-37	Ignoring uncontroverted evidence that Respondent's supervisor Crawford distributed the \$83.00 tip to the skycaps and finding, without basis in law or fact, that Lufthansa Airlines gave the tip to the skycaps.

Counsel for the General Counsel respectfully submits herewith a Brief in Support of these Exceptions.

DATED AT Brooklyn, New York, this 29th day of July, 2016

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