

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

TSCHIGGFRIE PROPERTIES, LTD

and

Case 25-CA-161304

TEAMSTERS LOCAL 120, a/w INTERNATIONAL
BROTHERHOOD OF TEAMSTERS

GENERAL COUNSEL'S MOTION FOR
EXTENSION OF TIME TO FILE POSITION STATEMENTS

Comes now Counsel for the General Counsel and, pursuant to Sections 102.2(c) and 102.24(a) of the Board's Rules and Regulations, respectfully submits this Motion for Extension of Time to File Position Statements. For the reasons stated below, the General Counsel requests that the deadline be extended to January 7, 2019.

1. On February 13, 2017, the Board issued its Decision and Order in this matter (365 NLRB No. 34). The Board found, *inter alia*, that Respondent Tschiggfrie Properties unlawfully discharged employee Darryl Galle in violation of Section 8(a)(3) of the Act. In so doing, the Board majority adopted the judge's application of Wright Line, 251 NLRB 1083 (1980), enfd. 662 F.2d 899 (1st Cir. 1981), that did not include a fourth so-called "nexus" prong.

2. On July 24, 2018, the Eighth Circuit denied enforcement, in relevant part, of the Board's Order (896 F.3d 880). The court ruled that the Board did not properly apply Wright Line, having not required the General Counsel to establish a nexus between Respondent's union animus and Galle's discharge. The court remanded the aspect of the case involving Galle's discharge to the Board to apply its formulation of the Wright Line standard.

3. On November 9, 2018, the Board accepted the Eighth Circuit's remand and invited the parties to submit statements of position with respect to the remand. The Board set a

December 7 deadline for the submission of such statements.

4. The Board's formulation of the Wright Line standard is a significant issue with a broad impact across numerous cases. In order to allow sufficient time for the General Counsel to review the matter and determine how best to respond to the Board's invitation, the General Counsel seeks a one month extension to January 7, 2019, for the parties to submit statements of position.

5. Counsel for both Respondent and Charging Party Teamsters Local 120 have been advised of the General Counsel's intent to seek a one month extension. Charging Party indicated it had no objection to the requested extension; Respondent has not taken a position on the General Counsel's request.

WHEREFORE, based on the foregoing, Counsel for the General Counsel requests that the deadline for the parties to submit statements of position with respect to the Eighth Circuit's remand be extended to January 7, 2019.

SIGNED at Indianapolis, Indiana, this 29th day of November 2018.

Respectfully submitted,



Derek A. Johnson
Counsel for the General Counsel
National Labor Relations Board
Region Twenty-Five
Minton-Capehart Federal Building, Room 238
575 North Pennsylvania Street
Indianapolis, Indiana 46204
Phone: (317) 991-7642
Fax: (317) 226-5103
E-mail: derek.johnson@nlrb.gov

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing General Counsel's Motion for Extension of Time to File Position Statements has been filed electronically with the Office of the Executive Secretary through the Board's E-Filing System this 29th day of November 2018. Copies of said filing are being served upon the following persons by electronic mail:

Davin C. Curtiss
O'Connor & Thomas, P.C.
1000 Main Street
Dubuque, IA 52001
Fax: (563) 556-1867
E-mail: dcurtiss@octhomaslaw.com

Kyle A. McCoy
Soldon McCoy Lawyers, LLC
5502 Upland Trail
Middleton, WI 53562
Fax: (608) 203-5708
E-mail: kamccoy@gmail.com



Derek A. Johnson