

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 9

SHAMROCK CARTAGE, INC.

and

Case 09-CA-219396

INTERNATIONAL BROTHERHOOD OF
TEAMSTERS (IBT), LOCAL UNION NO. 413

COUNSEL FOR THE GENERAL COUNSEL'S
LIMITED EXCEPTIONS AND SUPPORTING ARGUMENT

On December 7, 2018, Administrative Law Judge Andrew S. Gollin issued a Decision and proposed remedy in the above-captioned matter, finding that Respondent Shamrock Cartage Inc. had violated Sections 8(a)(1), (3) and (4) of the Act by suspending and firing employee Shane Smith because of his union and Board activity. The Administrative Law Judge further found that Respondent violated Sections 8(a)(1) and (5) of the Act by suspending Smith without first giving the Charging Party Union notice and an opportunity to bargain over that decision. Pursuant to the Board's Rules and Regulations Section 102.46(b)(1), Counsel for the General Counsel herein submits these limited exceptions to the proposed remedy and order of the Decision.

In the Remedy, the Administrative Law Judge recommends, "Respondent shall also be ordered to expunge from its files any and all references to *the discharge* of Shane Smith, and notify him in writing that this has been done and that evidence of the unlawful action will not be used against him in any way." (ALJD, p. 25, ll. 12-14) (emphasis added). In the Order, the Administrative Law Judge recommends, "Within 14 days from the date of this Order, remove from its files any reference to the *unlawful suspension and discharge* of Shane Smith, and within 3 days thereafter, notify said employee in writing that this has been done and that *the discharge*

will not be used against him in any way.” (ALJD, p. 26, ll. 24-27) (emphasis added) The Notice attached to the decision provides, “WE WILL remove from our files any reference to our unlawful April 9, 2018 suspension and April 13, 2018 discharge of Shane Smith, and we will notify him in writing that this has been done and that *the discharge* will not be used against him in any way.” (ALJD, Appendix) (emphasis added)

While the intent of the Administrative Law Judge’s recommendation is clear when read in context, Counsel for the General Counsel requests the Board conform the conclusions of law and remedy with the overall decision and clarify that neither the discharge *nor suspension* be used against Smith in any way. (See generally, ALJD, pp. 18-22)

Dated: January 4, 2019

Respectfully submitted,

/s/ Joseph F. Tansino

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CERTIFICATE OF SERVICE

January 4, 2019

I hereby certify that the attached Counsel for the General Counsel's Limited Exceptions and Supporting Argument was served by electronic mail to the following persons:

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