



UNITED STATES GOVERNMENT  
**NATIONAL LABOR RELATIONS BOARD**  
OFFICE OF THE GENERAL COUNSEL  
Washington, DC 20570

January 10, 2019

[REDACTED]

Re: Blue Cross Blue Shield of Tennessee  
Case 10-CA-207362

Dear [REDACTED]

Your appeal from the Regional Director's refusal to issue complaint has been carefully considered. The appeal is denied.

The evidence fails to establish the Employer terminated you for your protected, concerted activity, in violation of Section 8(a)(1) of the National Labor Relations Act. In that regard, to determine whether an employer's adverse action against an employee was discriminatorily motivated, the General Counsel must demonstrate by a preponderance of the evidence that the employee's protected activity was a motivating factor for the adverse decision; only after such showing is established, the inquiry turns into whether the employer would have taken the same action in the absence of the protected conduct. See *Wright Line*, 251 NLRB 1083 (1980), enfd. 662 F.2d 899 (1<sup>st</sup> Cir. 1981), cert. denied 455 U.S. 989 (1982).

While you may have engaged in protected concerted activity, the evidence established that you were discharged for legitimate work-related reasons. Accordingly, further proceedings are not warranted.

Sincerely,

Peter Barr Robb  
General Counsel

A handwritten signature in black ink that reads "Mark E. Arbesfeld".

By: \_\_\_\_\_  
Mark E. Arbesfeld, Director  
Office of Appeals

cc: JOHN D. DOYLE, JR.  
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