



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

November 5, 2019



Re: Acme Brick
Case 15-CA-243298

Dear [REDACTED]

We have carefully considered your appeal from the Regional Director's partial dismissal. Based on our review of the evidence disclosed by the Regional Office's investigation as well as applicable case law, we have decided to deny the appeal, substantially for the reasons explained in the Regional Director's letter dated August 28, 2019.

The Regional Office's investigation disclosed insufficient evidence to establish that the Employer threatened or discharged you, reduced your pay, or denied you your *Weingarten* rights, in violation of Section 8(a)(1) and (3) of the National Labor Relations Act (Act). Specifically, the evidence indicated that the Employer lawfully informed you of possible discipline for late arrivals. There is insufficient evidence to establish that the Employer restrained or coerced you when it made this statement. The investigation also disclosed that the Employer reduced your pay on one day and ultimately discharged you for legitimate business purposes. We do not find sufficient evidence to establish that your alleged protected activity motivated the Employer's decisions. Lastly, at the time of your discharge, the evidence failed to establish the meeting was an investigatory-type meeting where *Weingarten* rights would be applicable. In these circumstances, we cannot conclude the Employer violated the Act, as alleged.

The Regional Director, however, found arguable merit that the Employer informed you that you could not speak with a union representative on company time. Regional Directors have the authority conditionally to dismiss meritorious charges where immediately issuing complaint would not effectuate the purposes of the Act. Here, the Regional Director has conditionally dismissed this charge allegation, and will final dismiss it if no other meritorious unfair-labor-practice charges are filed against the Employer within six months of the decision. The investigation disclosed that no such charges have yet been filed against the Employer, and that the Employer has provided assurances that it will not engage in such conduct going forward. In these circumstances, we conclude the Regional Director's conditional dismissal is appropriate.

Finally, you also contend that the Regional Office conducted an inadequate investigation. Our review of the investigatory file disclosed that the Region conducted the investigation in

accordance with Board procedures and was both sufficient and proper to resolve the issues raised by your charge.

Accordingly, we deny the appeal, and this case is closed.

Sincerely,

Peter Barr Robb
General Counsel



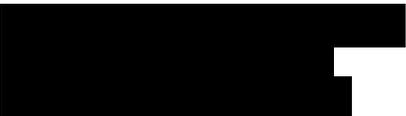
By: _____

Mark E. Arbesfeld, Director
Office of Appeals

cc: M. KATHLEEN MCKINNEY
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS
BOARD
600 S MAESTRI PL 7TH FL
NEW ORLEANS, LA 70130-3413



ACME BRICK COMPANY
22436 US 67
MALVERN, AR 72104



kh