



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 12
201 E. Kennedy Blvd Ste 530
Tampa, FL 33602-5824

Agency Website: www.nlrb.gov
Telephone: (813)228-2641
Fax: (813)228-2874

December 30, 2019

Lisa Westberry, Esq.
Westbury Law Group
412 E. Madison St., Ste. 908
Tampa, FL 33602

Re: International Longshoremen Association,
Local 1402, AFL-CIO (Ceres Marine
Terminals, Inc.)
Case 12-CB-248399

Dear Ms. Westberry:

The Region has carefully investigated and considered the charges you filed against International Longshoremen Association, Local 1402 AFL-CIO (the Union) alleging violations under Section 8 of the National Labor Relations Act (the Act).

Decision to Dismiss: Based on that investigation, I am dismissing your charge for the following reasons. The charge alleges that since a date on or about six months prior to the filing and service of the instant charge, the Union failed and refused to refer you to tie up cruise ships, in violation of Section 8(b)(1)(A) and (2) of the Act.

The investigation revealed that the Union operates an exclusive job referral hall that provides longshoremen to employers operating at the Port of Tampa, including Ceres Marine Terminals, Inc. (the Employer). The Union and Employer are parties to a collective-bargaining agreement. The Union refers employees to perform various work for the Employer pursuant to the terms of the collective-bargaining agreement, including line handling work for arriving and departing ships. To obtain a work referral, employees "shape" at the Union's referral hall and are referred to work based on seniority. However, some employees have regular work assignments that do not require daily referral.

The evidence shows that you are a Union member and have a regular work assignment as the Employer's grocery store gang header (foreman) for Carnival Cruise Lines, and you are not required to shape for a daily referral. Furthermore, you frequently begin your work day at about 6:30 a.m. Although you sometimes shape and obtain additional work through the Union's referral hall, your regular assignment as the grocery store gang header takes priority over other work, and it appears that there are occasions when you are working at the waterfront as a gang header are not available to perform line handling work.

The investigation disclosed that in the fall of 2017, the Union filed and pursued a grievance on your behalf because you were not being assigned to line work. The Union and Employer agreed that line work would be assigned by seniority and that you would be included in the rotation to receive line work. You contend that despite the settlement agreement, the Union has unlawfully refused to refer you to line work. However, the investigation revealed that since September 2019, the Union has been rotating the assignment of line handling work among the employees who are qualified to perform that work and available, and that the Union awarded line work to you on October 31, 2019, using this procedure. In addition, there is insufficient evidence to show that the Union improperly failed or refused to refer you to work on any dates in the period of time encompassed by your charge on which you sought line handling work and were available to perform that work.

For these reasons, I am refusing to issue a complaint in this matter.

Your Right to Appeal: You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

Means of Filing: An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at www.nlr.gov and:

- 1) Click on E-File Documents;
- 2) Enter the NLRB Case Number; and,
- 3) Follow the detailed instructions.

Electronic filing is preferred, but you also may use the enclosed Appeal Form, which is also available at www.nlr.gov. You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. To file an appeal by mail or delivery service, address the appeal to the **General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal **MAY NOT** be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

Appeal Due Date: The appeal is due on **January 13, 2020**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than January 12, 2020. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

December 30, 2019

Extension of Time to File Appeal: The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before January 13, 2020**. The request may be filed electronically through the *E-File Documents* link on our website www.nlr.gov, by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after January 13, 2020, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

Confidentiality: We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,



David Cohen
Regional Director

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Enclosure

cc:



Leon Chandler, President
International Longshoremen Association,
Local 1402, AFL-CIO
703 E Harrison St
Tampa, FL 33602-3417

International Longshoremen Association,
Local 1402, AFL-CIO (Ceres Marine
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Case 12-CB-248399

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December 30, 2019

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651 Channelside Dr.
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UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

APPEAL FORM

To: General Counsel
Attn: Office of Appeals
National Labor Relations Board
1015 Half Street SE
Washington, DC 20570-0001

Date:

Please be advised that an appeal is hereby taken to the General Counsel of the National Labor Relations Board from the action of the Regional Director in refusing to issue a complaint on the charge in

Case Name(s).

Case No(s). *(If more than one case number, include all case numbers in which appeal is taken.)*

(Signature)