



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

February 14, 2020

[REDACTED]

Re: Seabulk Towing, Inc.
Case 12-CA-246922

American Maritime Officers (Seabulk
Towing, Inc.)
Case 12-CB-246952

Dear [REDACTED]

We have carefully considered your appeal from the Regional Director's partial refusal to issue complaint in Case 12-CA-246922 and full dismissal of the charge in Case 12-CB-246592. Your appeal is denied.

On appeal, you argue that the Employer discriminated against you by denying you [REDACTED] for work that you performed in [REDACTED] and by discharging you. You assert that the Employer had no basis to discharge you because its transfer instruction was unlawful and retaliatory. You also aver that the Union unlawfully refused to process your [REDACTED] and discharge grievances.

Under the National Labor Relations Act (Act), an employer's adverse employment action is unlawful discrimination only if motivated by employees' protected activities. *Wright Line*, 251 NLRB 1083 (1980), *enfd.* 662 F.2d 899 (1st Cir. 1981), *cert. denied* 455 U.S. 989 (1982). In your case, the evidence was insufficient that the Employer unlawfully refused to provide you [REDACTED]. Rather, in good faith the Employer reviewed the applicable contract language and reasonably explained why it believed that the work you performed did not qualify as [REDACTED]. Further, regardless of the nature of your transfer instruction, the totality of the evidence supported a finding that the Employer discharged you for the non-discriminatory business reasons that it asserted, not because of your protected activities.

With respect to your charge against the American Maritime Officers (Union), when processing employee grievances, a union is afforded wide discretion and substantial latitude in disposing of grievances short of arbitration, provided that it does not dispose of the grievance for arbitrary or discriminatory reasons, or in bad faith, or in a perfunctory manner. See *Vaca v. Sipes*, 386 U.S. 171 (1967); *Local 888, American Federation of Government Employees (Bayley-Seton Hospital)*, 323 NLRB 717, 719 (1997). A union's reasonable and good faith interpretation of the contract does not violate the Act even if the contract may be reasonably but differently interpreted by employees. *Washington-Baltimore Newspaper Guild (CWA)*, 239 NLRB 1321 (1979). In your appeal, the evidence disclosed that in processing your grievances, the Union acted reasonably and in good faith. The Union reviewed your grievances but concluded that they lacked merit. Though you may disagree with the Union's interpretation of the contract and its decisions, there was insufficient evidence that the Union acted in an unlawful manner. Accordingly, your appeal is denied. This decision does not impact the remaining portion of the charge against the Employer in Case 12-CA-246922 alleging that it violated Section 8(a)(1) and (3) of the Act by transferring you because of your union activities in filing a [REDACTED] grievance. That allegation is still being processed by the Region.

Sincerely,

Peter Barr Robb
General Counsel



By: _____

Mark E. Arbesfeld, Director
Office of Appeals

cc: DAVID COHEN
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