



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
REGION 28  
2600 North Central Avenue  
Suite 1400  
Phoenix, AZ 85004

Agency Website: [www.nlr.gov](http://www.nlr.gov)  
Telephone: (602)640-2160  
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May 14, 2020



Re: AmeriCold Logistics, LLC  
Case 28-CA-255149

Dear [REDACTED]:

We have carefully investigated and considered your charge that AmeriCold Logistics, LLC has violated the National Labor Relations Act.

**Decision to Dismiss:** Based on that investigation, I have decided to dismiss your charge for the reasons discussed below.

Your charge alleges that the Employer violated Section 8(a)(1) of the Act by discharging you because you engaged in protected concerted activities. The evidence obtained during the investigation of your charge does not establish a violation of the Act.

It is a violation of Sections 8(a)(1) and 8(a)(3) of the Act for an employer to take adverse action against an employee for engaging in protected concerted activity or union activity. *Wright Line*, 251 NLRB 1083, 1089 (1980). In order to prove such an allegation, the General Counsel must establish that: 1) the discriminatee engaged in the protected activity; 2) that the employer had knowledge of this activity; 3) that the employer carried out an adverse employment action; and 4) that the adverse employment action taken was motivated by the protected concerted activity. *Wright Line*, 251 N.L.R.B. at 1089; *NLRB v. Transportation Management Corp.*, 462 U.S. 393, 399-401 (1983).

On June 8, 2018, the Employer discharged you for violating of its computer system policies. A grievance was filed protesting this action, and the Employer agreed to reinstate you and give you a "last chance agreement," which you signed. On June 11, 2019, the Employer discharged you for violating its computer systems policy a second time. Another grievance was filed, and the Employer agreed to reinstate you subject to certain conditions, including your enrolling in a program and being subjected to testing. Upon your noncompliance with these requirements, the Employer notified you that you would be terminated. On September 11, 2019, the Employer discharged you but agreed to give you one final chance to complete the requirements for you to return to work. The evidence

established, however, that the requirements were not completed, and the Employer discharged you on November 27, 2019. Although the evidence establishes that you engaged in union activities by filing grievances and that the Employer was aware of those activities, the evidence does not establish that the Employer ever expressed hostility toward you because of your participation in these protected activities. As such, the evidence is insufficient to support a conclusion that your protected concerted or union activities were a substantial or motivating factor for the Employer's discharge actions on June 8, June 11, September 11 and November 27, 2019.

I am, therefore, refusing to issue a complaint in this matter.

**Charging Party's Right to Appeal:** The Charging Party may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

**Means of Filing:** You must file your appeal electronically or provide a written statement explaining why electronic submission is not possible or feasible (Written instructions for the NLRB's E-Filing system and the Terms and Conditions of the NLRB's E-Filing policy are available at [www.nlr.gov](http://www.nlr.gov). See [User Guide](#). A video demonstration which provides [step-by-step instructions](#) and frequently asked questions are also available at [www.nlr.gov](http://www.nlr.gov). If you require additional assistance with E-Filing, please contact [E-File@NLRB.gov](mailto:E-File@NLRB.gov)).

You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. If you cannot file electronically, please send the appeal and your written explanation of why you cannot file electronically 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 **May 28, 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 May 27, 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.

**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 May 28, 2020**. The request may be filed electronically through the *E-File Documents* link on our website [www.nlr.gov](http://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 May 28, 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,

*/s/ Cornele A. Overstreet*

Cornele A. Overstreet  
Regional Director

Enclosure

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CAO/RM/mhz