

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

July 27, 2020

Christopher M. Wolpert
Clerk of Court

NATIONAL LABOR RELATIONS
BOARD,

Petitioner,

v.

SMITH'S FOOD & DRUG CENTERS,
INC.,

Respondent.

No. 20-9531
(NLRB No. 28-CA-235776)
(National Labor Relations Board)

ORDER

Before **TYMKOVICH**, Chief Judge, **EBEL**, and **LUCERO**, Circuit Judges.

This cause was submitted upon the application of the National Labor Relations Board for summary entry of a judgment against Respondent, Smith's Food and Drug Centers, Inc., its officers, agents, successors, and assigns, enforcing its order dated December 11, 2019, in Case No. 28-CA-235776, reported at 368 NLRB No. 127, and the Court having considered the same, it is hereby

ORDERED AND ADJUDGED by the Court that the Motion of Smith's Food and Drug Centers, Inc., to Withdraw Its Objection to Entry of Proposed Judgment is GRANTED; and

FURTHER ORDERED AND ADJUDGED by the Court that the Respondent, Smith's Food and Drug Centers, Inc., its officers, agents, successors, and assigns, shall abide by said order (See Attached Order and Appendix).

Entered for the Court
CHRISTOPHER M. WOLPERT, Clerk



by: Lara Smith
Counsel to the Clerk

NATIONAL LABOR RELATIONS BOARD

v.

SMITH'S FOOD AND DRUG CENTERS, INC.

ORDER

Smith's Food and Drug Centers, Inc., Albuquerque, New Mexico, its officers, agents, successors, and assigns, shall

1. Cease and desist from
 - (a) Refusing to bargain collectively with Bakery, Confectionery, Tobacco Workers and Grain Millers BCTGM Local #351, AFL-CIO-CLC by failing and refusing to furnish it with requested information that is relevant and necessary to the Union's performance of its functions as the collective-bargaining representative of the Respondent's unit employees.
 - (b) Refusing to bargain collectively with the Union by unreasonably delaying in providing it with requested information that is relevant and necessary to the Union's performance of its functions as the collective-bargaining representative of the Respondent's unit employees.
 - (c) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.
2. Take the following affirmative action necessary to effectuate the policies of the Act.
 - (a) Furnish to the Union in a timely manner the information it requested on January 30, 2019, that has not already been provided and is set forth above in paragraph 3(a) (1-9) of this decision.
 - (b) Within 14 days after service by the Region, post at its facilities in various locations throughout the State of New Mexico copies of the attached notice marked "Appendix." Copies of the notice, on forms provided by the Regional Director for Region 28, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be

distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. If the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since January 30, 2019.

- (c) Within 21 days after service by the Region, file with the Regional Director for Region 28 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

APPENDIX

NOTICE TO EMPLOYEES

POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES
COURT OF APPEALS ENFORCING AN ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT refuse to bargain collectively with Bakery, Confectionery, Tobacco Workers and Grain Millers BCTGM Local #351, AFL-CIO-CLC by failing and refusing to furnish it with requested information that is relevant and necessary to the performance of its functions as the collective-bargaining representative of our unit employees.

WE WILL NOT refuse to bargain collectively with the Union by unreasonably delaying in providing it with requested information that is relevant and necessary to the performance of its functions as the collective-bargaining representative of our unit employees.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights listed above.

WE WILL furnish to the Union in a timely manner the information it requested on January 30, 2019, that we have not already provided.

SMITH'S FOOD AND DRUG CENTERS, INC.

The Board's decision can be found at www.nlr.gov/case/28-CA-235776 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.

