The Region submits this case to Advice on the issue of whether the Charging Party was unlawfully discharged because engaged in activity which was inherently concerted by virtue of repeated conversations with co-worker-- albeit Charging Party mistakenly believed to be supervisor-- to assist in getting a raise. We conclude that the Charging Party’s conduct was inherently concerted, and was for mutual aid and protection. Nonetheless, we conclude that the Employer meets its *Wright Line* defense, and accordingly, the charges should be dismissed, absent withdrawal.

During the course of employment, Charging Party made comments to a fellow employee (who believed was supervisor), that the Charging Party desired a raise. On one occasion, the Charging Party asked that co-worker and the Condominium Association if they could help secure a raise for. The co-worker responded to the Charging Party that needed to earn a raise. On 2021 the Charging Party engaged in a heated discussion with over work performance and wages. The Charging Party stated would only do the additional work residents requested if was given a raise. Almost immediately following that discussion, and due to numerous previous reports of insubordination and failure to complete tasks, wrote up the Charging Party for insubordination. On the Charging Party refused to shovel snow around the building, becoming belligerent and using profanity. Thereafter, on suspended the Charging Party for insubordination because the Charging Party refused the direction to shovel the parking lot. About a week later informed the Charging Party was suspending the Charging Party pending investigation into unspecified allegations. The Charging Party was subsequently terminated but given no reason. Employer records show the Charging Party was terminated for insubordination and allegations of sexual harassment of 3 residents.

We conclude that the Charging Party’s discussions with co-worker were inherently concerted. Certain categories of employee discussions are “inherently concerted,” meaning that they are deemed concerted regardless of whether “they are engaged in with the express object of inducing group action.” *Hoodview Vending Co.*, 362 NLRB 690, n.1 (2015) (quoting *Alternative Energy Applications, Inc.*, 361 NLRB 1203, 1206 n.10 (Dec. 16, 2014), and finding discussions regarding job security inherently concerted). The Board has long held that discussions about wages are inherently concerted since wages are a “vital term and condition of employment” and the “grist on which concerted activity feeds.” See *Automatic Screw Products Co.*, 306 NLRB 1072, 1072 (1992) (discussions of wages are inherently concerted), *enforced mem.*, 977 F.2d 582 (6th Cir. 1992); *Alternative Energy Applications, Inc.*, 361 NLRB n.10 (same).

Here, despite Charging Party’s misapprehension of co-worker’s supervisory status, asking this employee for assistance in securing a wage increase satisfies the necessary “employee” precursor discussion for inherently concerted conduct. See, *Hoodview Vending Co.*, 359 NLRB 355, 358 n.16 (2012) (“Inherently concerted activity involves a conversation between two or more individuals.”), incorporated by reference in 362 NLRB No. 81, slip op. at 1). We further conclude that, although CP undertook that conversation with co-worker with only own immediate interests in mind, the
conversation was nevertheless for mutual aid or protection under the solidarity principle discussed in *Fresh & Easy Neighborhood Market, Inc.*, 361 NLRB 151, 155-156 (2014) (citing *El Gran Combo*, 284 NLRB 1115, 1116-17 (1987) enfd. 853 F.2d 996 (1st Cir. 1988), *Circle K Corp.*, 305 NLRB 932 (1991), enfd. mem. 989 F.2d 498 (6th Cir. 1993) and other cases where a singular employee motivated by his or her own concerns nevertheless engages in conduct for mutual aid or protection when soliciting others to support what amounts to an individual request).

And, while the evidence shows the adverse action here was taken close in time to Charging Party’s discussion with the co-worker, even assuming we were to infer knowledge of that activity and animus toward it, nonetheless, we conclude that the Employer here will meet its *Wright Line* defense, given the numerous examples of the Charging Parties’ insubordination, and failure to complete tasks as assigned. Indeed, the Charging Party does not seriously dispute that refused to perform certain tasks. Note further -- we find it unnecessary to rely on the 3 allegations of sexual harassment. While evidence of sexual harassment of any kind is serious and in no way should be condoned, here, the allegations against Charging Party were not relayed to as a reason for discharge. Further, while the Employer was unable to provide comparable discipline issued to others, its explanation that they are a small operation with at most 3 janitorial employees, very little turnover and that they simply have no examples of conduct comparable to the Charging Party’s, appears to be credible. Nor is there any other evidence of pretext on this record. Accordingly, these charges should be dismissed, absent withdrawal.

[b] (6), [b] (7)(C)

---

[1] *See Manor Care Health Services-Easton*, 356 NLRB 202, 204, 225-26 (2010), enforced 661 F.3d 1139 (D.C. Cir. 2011) (finding that knowledge may be inferred based on circumstantial evidence).