The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Default Judgment

Section 102.20 of the Board’s Rules and Regulations provides that the allegations in a complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. In addition, the complaint affirmatively states that unless an answer is received on or before January 6, 2022, the Board may find, pursuant to a motion for default judgment, that the allegations in the complaint are true. Further, the undisputed allegations in the General Counsel’s motion disclose that the Region, by email dated January 11, 2022, advised the Respondent that unless an answer was received by January 20, 2022, a motion for default judgment would be filed. Nevertheless, the Respondent failed to file an answer.

In the absence of good cause being shown for the failure to file an answer, we deem the allegations of the complaint to be admitted as true, and we grant the General Counsel’s Motion for Default Judgment.

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

At all material times, the Respondent has been a corporation with an office and place of business at 523 Jackson Avenue, Suite #2, Elizabeth, New Jersey, and has been engaged in the provision of logistic transportation services.

During the 12 months preceding the complaint, in conducting its operations described above, the Respondent derived gross revenues in excess of $50,000 from the performance of its services in States other than the State of New Jersey.

We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

We find that Transportation, Production & Warehouse Employees, Local 438 is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

1. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of the Respondent within the meaning of Section 2(11) of the Act and agents of the Respondent within the meaning of Section 2(13) of the Act:

   Christian Velasquez – Owner
   Salvador Velasquez – Owner

2. About September 2, 2021, the Respondent, by Christian Velasquez, during a telephone conversation:
   (a) interrogated employees about their union sympathies and support; and
   (b) directed employees not to communicate directly with the Respondent’s Owner Christian Velasquez.

3. About September 3, 2021, the Respondent issued a written warning to its employee Yessica Emiliano-Ramirez.

4. About September 2021, the Respondent imposed onerous and rigorous terms and conditions of employment on Yessica Emiliano-Ramirez by switching her truck and giving her a truck in poor maintenance condition.

5. The Respondent engaged in the conduct described above in the paragraphs 3 and 4 because Yessica Emiliano-Ramirez assisted the Union and engaged in concerted activities, and to discourage employees from engaging in these activities.

CONCLUSION OF LAW

By the conduct described above in paragraph 2, the Respondent has been interfering with, restraining, and
coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

By the conduct described above in paragraphs 3, 4, and 5, the Respondent has been discriminating in regard to the hire or tenure or terms or conditions of employment of its employees, thereby discouraging membership in a labor organization in violation of Section 8(a)(3) and (1) of the Act.

The Respondent’s unfair labor practices described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. Specifically, having found that the Respondent violated Section 8(a)(3) and (1) by discriminating in regard to the conditions of employment of its employees thereby discouraging membership in a labor organization, we shall order the Respondent to rescind the written warning issued to Yessica Emiliano-Ramirez, to remove any reference to the written warning from its records, and to inform her that the it will not use the written warning against her in any way. We shall also order the Respondent to rescind the unlawful change in Emiliano-Ramirez’s working conditions.

ORDER

The National Labor Relations Board orders that the Respondent, CMA Logistics, LLC, Elizabeth, New Jersey, its officers, agents, successors, and assigns shall

1. Cease and desist from

(a) Coercively interrogating employees about their union sympathies and support.

(b) Directing employees not to communicate directly with the Respondent’s Owner Christian Velasquez because they assisted the Union and engaged in concerted activities or to discourage them from assisting the Union and engaging in concerted activities.

(c) Issuing disciplinary warnings to employees because of their support for and activities on behalf of the Union.

(d) Imposing more onerous working conditions on employees because of their support for and activities on behalf of the Union.

(e) 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) Rescind the unlawful written warning issued to Yessica Emiliano-Ramirez on about September 3, 2021.

(b) Within 14 days from the date of this Order, remove from its files any reference to the unlawful written warning and within 3 days thereafter, notify the employee in writing that this has been done and that the written warning will not be used against her in any way.

(c) Rescind the more onerous working conditions imposed upon Yessica Emiliano-Ramirez on about September 2021.

(d) Post at its facility in Elizabeth, New Jersey copies of the attached notice marked “Appendix.” Copies of the notice, on forms provided by the Regional Director for Region 22, 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 September 23, 2021.

(e) Within 21 days after service by the Region, file with the Regional Director for Region 22 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.

Dated, Washington, D.C. April 15, 2022

Lauren McFerran, Chairman

1 If the facility involved in these proceedings is open and staffed by a substantial complement of employees, the notices must be posted within 14 days after service by the Region. If the facility involved in these proceedings is closed due to the Coronavirus pandemic, the notices must be posted within 14 days after the facility reopens and a substantial complement of employees have returned to work, and the notices may not be posted until a substantial complement of employees have returned to work. Any delay in the physical posting of paper notices also applies to the electronic distribution of the notice if the Respondent customarily communicates with its employees by electronic means. If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading “Posted by Order of the National Labor Relations Board” shall read “Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board.”
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 coercively question you about your Union sympathies and support.
WE WILL NOT direct you not to communicate directly with Christian Velasquez because you assist the Union and engage in concerted activities or to discourage you from assisting the Union and engaging in concerted activities.

WE WILL NOT issue you disciplinary warnings because of your support for and activities on behalf of the Union.
WE WILL NOT impose more onerous working conditions on you because of your support for and activities on behalf of the Union.
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 rescind the unlawful written warning issued to Yessica Emiliano-Ramirez on about September 3, 2021.
WE WILL, within 14 days from the date of the Board’s Order, remove from our files any reference to the unlawful written warning issued to Yessica Emiliano-Ramirez, and WE WILL, within 3 days thereafter, notify her in writing that this has been done and that the written warning will not be used against her in any way.
WE WILL rescind the more onerous working conditions that we imposed upon Yessica Emiliano-Ramirez on about September 2021.

CMA LOGISTICS, LLC

The Board’s decision can be found at www.nlrb.gov/case/22-CA-283429 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.