



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 18
Federal Office Building
212 Third Avenue South, Suite 200
Minneapolis, MN 55401-2657

Agency Website: www.nlr.gov
Telephone: (612)348-1757
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January 30, 2018

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80 SOUTH 8TH STREET, SUITE 1300
MINNEAPOLIS, MN 55402-2136

BENJAMIN SANDAHL, ATTORNEY
LITTLER MENDELSON, P.C.
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Re: SEIU HEALTHCARE MINNESOTA
(Mayo Clinic Health System)
Case 18-CB-210630

Gentlemen:

We have carefully investigated and considered your charge that SEIU Healthcare Minnesota 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 Union engaged in bad faith bargaining by making regressive proposals and belatedly introducing new proposals that the Employer could not reasonably be expected to accept. The investigation revealed that the parties bargained for over a year and reached numerous tentative agreements, but broke off negotiations in September 2016 after the Union filed charges challenging the Employer's insistence on broad waivers to benefit plan changes. After an administrative law judge dismissed the Union's charges, the parties resumed negotiations. However, the Union then revoked many tentative agreements and substituted new proposals, including a prohibition on subcontracting. The evidence fails to establish that the Union acted with intent to frustrate the bargaining process. To the contrary, the evidence reflects the Union's actions were prompted by changed circumstances, such as dismissal of their earlier charge, increased use of subcontracting, and changes in the bargaining position of the Employer on some terms and conditions of employment. I am therefore dismissing your charge and refusing to issue complaint in this matter.

Your Right to Appeal: You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

Means of Filing: An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at www.nlr.gov and:

- 1) Click on E-File Documents;
- 2) Enter the NLRB Case Number; and,
- 3) Follow the detailed instructions.

Electronic filing is preferred, but you also may use the enclosed Appeal Form, which is also available at www.nlr.gov. You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. To file an appeal by mail or delivery service, address the appeal 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 **February 13, 2018**. 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 February 12, 2018. **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 February 13, 2018**. The request may be filed electronically through the **E-File Documents** link on our website 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 February 13, 2018, **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/ Jennifer A. Hadsall

JENNIFER A. HADSALL
Regional Director

Enclosure

cc: JAMIE GULLEY, PRESIDENT
SEIU HEALTHCARE MINNESOTA
345 RANDOLPH AVE STE 100
SAINT PAUL, MN 55102

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January 31, 2018

JOHN C. SCULLY, ESQ.
C/O NATIONAL RIGHT TO WORK
LEGAL DEFENSE FOUNDATION, INC.
8001 BRADDOCK ROAD, SUITE 600
SPRINGFIELD, VA 22160

Re: GCC-IBT LOCAL 727S TEAMSTERS
(Bemis N.A.)
Case 18-CB-213051

Dear Mr. Scully:

We have carefully investigated and considered your charge that GCC/IBT Local 727-S 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 Union has violated its duty of fair representation and interfered with employees' Section 7 rights by filing frivolous unfair labor practice charges in order to prevent processing a decertification petition, Case No. 18-RD-209021. In support of the charge, you filed a position statement and asked the Region to take notice of the records in the pending unfair labor practice charges, but presented no other evidence. As the Region has made merit determinations in several of the charges and as no other evidence presented establishes bad faith in the filing of the charges, the evidence fails to establish the charges were frivolous or otherwise filed with a bad faith intent to prevent the processing of the decertification petition. I am therefore dismissing your charge and refusing to issue complaint in this matter.

Your Right to Appeal: You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

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Appeal Due Date: The appeal is due on **February 14, 2018**. 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 February 13, 2018. **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.

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Very truly yours,

/s/ Jennifer A. Hadsall

JENNIFER A. HADSALL
Regional Director


Enclosure

cc: ANDRE' D JOHNSON, PRESIDENT
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PABST BOILER HOUSE
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(b) (6), (b) (7)(C)

A large black rectangular redaction box covers the text below the (b) (6), (b) (7)(C) label.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

SUBREGION 30
310 West Wisconsin Avenue, Suite 450W
Milwaukee, WI 53203-2246

Agency Website: www.nlrb.gov
Telephone: (414)297-3861
Fax: (414)297-3880

January 26, 2018

(b) (6), (b) (7)(C)

Re: SEIU-UHW (St. Bernardine's Medical
Center)
Case 31-CB-207908

Dear (b) (6), (b) (7)(C)

The Region has carefully investigated and considered the charge against SEIU-UHW (Union) alleging violations under Section 8 of the National Labor Relations Act.

Decision to Dismiss: Based on that investigation, I have concluded that further proceedings are not warranted, and I am dismissing the charge for the following reasons:

The charge alleges that SEIU-UHW (Union) restrained and coerced employees in the exercise of rights protected by Section 7 of the Act by refusing to process and arbitrate your grievance regarding the Employer's failure to award you a job position, for arbitrary or discriminatory reasons or in bad faith.

However, the investigation revealed that the Union has processed your grievance through various steps of the grievance process, including by taking your grievance to a formal mediation procedure on or about (b) (6), (b) (7)(C) 2017. Furthermore, the Union received a successful result in that mediation, although you assert that the Employer has yet to comply with the resolution.

It is well established that Unions are afforded a wide range of reasonableness with respect to their duty to represent employees and with respect to processing and arbitrating grievances. See *Airline Pilots Assoc., Int'l v. O'Neill*, 499 U.S. 65, 78, 111 S.Ct. 1127, 1136 (1991). To find that a union did not fairly represent employees, it must be shown that the union acted arbitrarily, discriminatorily, or in bad faith. *Vaca v. Sipes*, 386 U.S. 171 (1967). Mere negligence, poor judgment, or ineptitude in grievance handling are insufficient to establish a breach of the duty of fair representation. *Service Employees Intl. Union, Local 579 (Beverly Manor Convalescent Center)*, 229 NLRB 692, 695 (1977); see also *Airline Pilots*, supra.

Although you allege that the Union delayed in bringing your case to mediation, the mere delay in processing or investigating a grievance, absent evidence of animus or discriminatory treatment, is insufficient to demonstrate that a union's conduct is arbitrary, invidious, or unfair. *Rainey Security Agency, Inc.*, 274 NLRB 269, 270 (1985).

There was no evidence to establish that the Union's delay in your case was motivated by animus or discriminatory treatment.

Your Right to Appeal: You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

Means of Filing: An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at www.nlr.gov and:

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Appeal Due Date: The appeal is due on **February 9, 2018**. 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 February 8, 2018. **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.

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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,

MORI RUBIN
Regional Director

By: /s/ Benjamin Mandelman

BENJAMIN MANDELMAN
Officer in Charge

Enclosure

cc: ST. BERNARDINE'S MEDICAL
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