



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 29
Two Metro Tech Center
Suite 5100
Brooklyn, NY 11201-3838

Agency Website: www.nlr.gov
Telephone: (718)330-7713
Fax: (718)330-7579

September 28, 2018

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

Re: Local 1181-1061, Amalgamated Transit
Union, AFL CIO (Reliant Bus
Transportation)
Case 29-CB-222041

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

We have carefully investigated and considered your charge that Local 1181-1061, Amalgamated Transit Union, AFL-CIO has violated the National Labor Relations Act.

Decision to Dismiss: Based on that investigation, I have decided to dismiss your charge because there is insufficient evidence to establish a violation of the Act.

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.

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Very truly yours,


KATHY DREW-KING
Regional Director

Enclosure

cc: John Deloatch, Organizer
Local 1181-1061, Amalgamated Transit
Union, AFL-CIO
20 N. Central Avenue
Valley Stream, NY 11580

Local 1181-1061, Amalgamated Transit
Union, AFL CIO (Reliant Bus
Transportation)
Case 29-CB-222041

- 3 - September 28, 2018

Human Resources Representative
Caroline
Reliant Bus Transportation
297 Norman Avenue
Brooklyn, NY 11222



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September 13, 2018

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

Re: United Federation of College Teachers,
Local 1460, American Federation of
Teachers, AFL-CIO (Pratt Institute)
Case 29-CB-222316

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

We have carefully investigated and considered your charge that United Federation of College Teachers, Local 1460, American Federation of Teachers, AFL-CIO has violated the National Labor Relations Act.

Decision to Dismiss: Based on that investigation, I have decided to dismiss your charge because there is insufficient evidence to establish a violation of the Act.

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.nlrb.gov and:

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Very truly yours,

/s/

KATHY DREW-KING
Regional Director

Enclosure

cc: Kye Carbone
United Federation of College Teachers,
Local 1460, American Federation of
Teachers, AFL-CIO
123 North Hall, 200 Willoughby Avenue,
Brooklyn, NY 11205

United Federation of College Teachers,
Local 1460, American Federation of
Teachers, AFL-CIO (Pratt Institute)
Case 29-CB-222316

- 3 - September 13, 2018

John Decker, Chair of Art History
Department
200 Willoughby Avenue,
Brooklyn, NY 11205



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September 24, 2018

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

Re: New York Rural Letter Carriers
Association (United States Postal
Service/Long Island District)
Case 29-CB-223982

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

We have carefully investigated and considered your charge that New York Rural Letter Carriers Association 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 within the previous six months, New York Rural Letter Carriers Association (the Union) has restrained and coerced employees in the exercise of rights protected by Section 7 of the Act by refusing to process your grievance for arbitrary or discriminatory reasons or in bad faith, in violation of Section 8(b)(1)(A) of the Act.

The evidence in the investigation established that in a (b) (6), 2018 phone call, and again in a (b) (6), 2018 letter, you requested that the Union assist you in declining the route you were awarded by United States Postal Service because the number of hours allotted for the route went from 45 to 42 hours after you were granted the position. On (b) (6), 2018, the Union responded to you in writing. It informed you that (1) it looked into your claim that the vacancy was posted in violation of the collective bargaining agreement and determined that the route was posted before the results of the mail count became official; (2) the position was awarded in accordance with the contract; and (3) it would not be pursuing your grievance even though the route hours were reduced.

It is well established that a union, as the exclusive representative of the bargaining unit employees, has a statutory duty to fairly represent their interests in the processing of grievances. See *Vaca v. Sipes*, 386 U.S. 171 (1967); *Miranda Fuel Co.*, 140 NLRB 81 (1962). At the same time, however, a union is afforded a wide range of discretion in the performance of its representation functions, including deciding which grievances to pursue. Thus a union does not breach its duty of fair representation unless the union's conduct is based upon arbitrary, invidious or discriminatory considerations.

Here, the investigation did not establish that the Union acted arbitrarily, discriminatorily or in bad faith by failing to pursue your grievance. Rather, the evidence establishes that the Union investigated the change in the route's hours and determined that the hours were changed

September 24, 2018

in accordance with the terms of the collective bargaining agreement. I am, therefore, refusing to issue a 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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September 24, 2018

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,



TERESA POOR
Acting Regional Director

Enclosure

cc: Phil Tremper, Assistant Area Steward
New York Rural Letter Carriers
Association
PO Box 515
Pine Bush, NY 12566-0515

Jean Marc Favreau, Esq.
Peer Gan & Gisler LLP
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David H. Rudy, Manager
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Long Island District
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Melville, NY 11760-9994

Roderick D. Eves, Esq.
United States Postal Service
1720 Market Street, Rm 2400
St. Louis, MO 63155-9948



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September 27, 2018

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

Re: 1199SEIU (Brooklyn Hospital Center)
Case 29-CB-224838

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

We have carefully investigated and considered your charge that 1199 SEIU has violated the National Labor Relations Act.

Decision to Dismiss: Based on that investigation, I have decided to dismiss your charge because there is insufficient evidence to establish a violation of the Act.

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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September 27, 2018

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Very truly yours,



KATHY DREW-KING
Regional Director

Enclosure

cc: Manue Leon, Delegates' VP
1199 SEIU
310 West 43rd Street
New York, NY 10036

Micah Wissinger, ESQ.
Levy Ratner, P.C.,
80 Eighth Avenue, 8th Floor,
New York, NY 10011-7175

John P.J. Mattiace Esq.
Kelly Drye & Warren LLP
101 Park Ave, 27th Fl
New York, NY 10178-0001

Tom Foley, HR Director
Brooklyn Hospital Center
121 Dekalb Avenue
Brooklyn, NY 11205



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September 13, 2018

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

Re: New York State Nurses Association
(Fresenius Medical Care)
Case 29-CB-225323

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

We have carefully considered your charge that New York State Nurses Association has violated the National Labor Relations Act.

Decision to Dismiss: I have decided to dismiss your charge based on your lack of cooperation with the National Labor Relations Board investigation.

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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Very truly yours,


KATHY DREW KING
Regional Director

Enclosure

cc:

Claire Tuck, Esq.
New York State Nurses Association
131 West 33rd St
4th Floor
New York, NY 10001

New York State Nurses Association
(Fresenius Medical Care)
Case 29-CB-225323

- 3 - September 13, 2018

Rory Barthel, Esq.
New York State Nurses Association
131 West 33rd Street, 4th Floor
New York, NY 10011

Grace Armada
Fresenius Medical Care
362 4th Ave
Brooklyn, NY 11215-2718



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September 28, 2018

Mark E. Belland, Esq.
O'Brien, Belland & Bushinsky, LLC
1526 Berlin Road
Cherry Hill, NJ 08003

Re: District Council 1707, AFSCME (Allen
Health Services and MZL Home Care
Agency)
Case 29-CB-226351

Dear Mr. Belland:

We have carefully investigated and considered your charge that District Council 1707, AFSCME, Local 389 has violated the National Labor Relations Act.

Decision to Dismiss: Based on that investigation, I have decided to dismiss your charge alleging that District Council 1707, AFSCME, Local 389 (AFSCME) unlawfully accepted recognition and bargained on behalf of former employees of MZL Home Care Agency (MZL) for the reasons discussed below.

The investigation revealed that Allen Health Services (Allen) lawfully recognized AFSCME as the collective-bargaining representative of its home health aides and the home health aides who were formerly employed by MZL Home Care Agency (MZL). Allen was a party to a collective-bargaining agreement with AFSCME which at all relevant times covered the positions of MZL employees hired by Allen. Allen entered into a prospective agreement with AFSCME regarding the accretion of MZL employees to its pre-existing unit of home health aides. This agreement did not constitute unlawful acceptance of recognition and bargaining by AFSCME because Allen was not a successor to MZL (*Fall River Dyeing & Finishing Corp. v. NLRB*, 482 U.S. 27 (1987)), and because the former MZL home health aides constituted a proper accretion to the pre-existing AFSCME unit at Allen.

As the evidence fails to establish that AFSCME violated the Act as alleged or in any other manner encompassed by your charge, I am dismissing the charge.

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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District Council 1707, AFSCME (Allen
Health Services MZL Home Care Agency)
Case 29-CB-226351

- 3 - September 28, 2018

Very truly yours,



KATHY DREW-KING
Regional Director

Enclosure

cc: Kim Median, Executive Director
District Council 1707, AFSCME
420 West 45th Street
New York, NY 10036

Thomas Murray, ESQ.
900 Third Avenue
21st Floor
New York, NY 10022

Marie Adreacchio, President
Allen Health Services
201 70-00 Austin Street
Forest Hills, NY 11375

Scott A. Faust, ESQ.
Proskauer Rose LLP
One International Place
Boston, MA 02110

United Food & Commercial Workers
Union Local 2013
9235 4th Avenue
Brooklyn, NY 11209