



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
REGION 22
20 WASHINGTON PL
FL 5
NEWARK, NJ 07102-3127

Agency Website: www.nlr.gov
Telephone: (973)645-2100
Fax: (973)645-3852

September 28, 2018

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

Re: ABM Building Services
Case 22-CA-221582

Local 32B-32J, Service Employees
International Union (ABM Building
Services)
Case 22-CB-221616

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

We have carefully investigated and considered your charges that ABM Building Services and 32B-32J Service Employee International Union have violated the National Labor Relations Act.

Decision to Dismiss: Based on that investigation, I have decided to dismiss your charges 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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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 October 11, 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 October 12, 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 October 12, 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.

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Very truly yours,

/s/ David E. Leach III

David E. Leach III
Regional Director

Enclosure

cc: (b) (6), (b) (7)(C)
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BRENT GARREN, DEPUTY GENERAL
COUNSEL
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September 28, 2018

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

Re: Local 10 American Postal Workers Union
(United States Postal Service)
Case 22-CB-217652

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

We have carefully investigated and considered your charge that Local 10 American Postal Workers Union has violated 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:

You alleged that, American Postal Workers Union, Local 10 (herein “the Union”) violated Section 8(b)(1)(A) of the Act by failing and refusing to process your grievance regarding letters of indebtedness issued by your Employer, the United States Postal Service. However, it is undisputed that you were not willing to meet or otherwise discuss the matter with your designated shop steward and that you never filed a formal grievance with the Union. In this regard, the investigation revealed that in response to your insistence that your grievance be handled by the Union’s (b) (6), (b) (7)(C) you were specifically instructed, as an initial condition, to meet with your designated steward to grieve the issue, and that your failure to do so could result in the Union declining to process a grievance on your behalf. Although you presented evidence where employees were represented by stewards other than their respective shift’s designated stewards, the investigation revealed with respect to these infrequent departures from the usual practice, that at the time of these particular grievances, none of the designated “tour” stewards were available. It is undisputed that when you sought to file a grievance in the instant matter, your designated steward was available to assist you. However, you declined to communicate with the designated steward because of a prior disagreement between you and that steward. When you informed the Union’s (b) (6), (b) (7)(C) of your unwillingness to work with your steward, (b) (6), (b) (7)(C) considered your concerns but clearly directed you to pursue the initial grievance with your steward, consistent with the Union’s practice and the parties’ applicable contractual provision.

It is well established that labor organizations are afforded a wide range of reasonableness in representing employees in grievances and absent discriminatory or other arbitrary factors, not present here, their decisions will not be overturned. See generally, *Vaca v. Sipes*, 386 U.S. 171 (1967); *Ford Motor Co. v. Huffman*, 345 U.S. 330 (1953); *Miranda Fuel Company, Inc.*, 140 NLRB 181 (1962). Here, there is insufficient evidence to establish that the Union’s uniformly applied requirement that employees initiate grievances with and through their designated stewards was arbitrary, was applied in a discriminatory manner, or was otherwise unlawful.

September 28, 2018

Absent evidence of discriminatory or invidious treatment herein, it cannot be concluded that the Union violated the Act as alleged.

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September 28, 2018

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Very truly yours,

/s/ David E. Leach III

David E. Leach III
Regional Director

Enclosure

cc: JONATHAN SMITH, PRESIDENT
AMERICAN POSTAL WORKERS
UNION, LOCAL 10
350 W 31ST ST FL 2
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NEW YORK, NY 10001-2726

LOUIE NIKOLADIS, ESQ.
350 WEST 31ST STREET, SUITE 401
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ANTHONY GONELLA,
TRANSPORTATION DIRECTOR
UNITED STATES POSTAL SERVICE
850 NEWARK TPKE
KEARNY, NJ 07099-9998



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September 28, 2018

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

Re: United Food Commercial Workers,
Local 312 (Bentley Labs, Inc.)
Case 22-CB-220085

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

We have carefully investigated and considered your charge that UFCW Local 312 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:

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312

Case 22-CB-220085

delivery service no later than October 11, 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/ David E. Leach III

David E. Leach III
Regional Director

Enclosure

cc: (b) (6), (b) (7)(C)
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100 S WOOD AVE
ISELIN, NJ 08830

MARK E. BELLAND, ESQ.
O'BRIEN, BELLAND & BUSHINSKY, LLC
1526 BERLIN ROAD,
CHERRY HILL, NJ 08003

United Food Commercial Workers, LOCAL - 3 - September 28, 2018
312
Case 22-CB-220085

ANN MARIE HANSEN, VP OF FINANCE AND HR
BENTLEY LABORATORIES, LLC
111 FIELDCREST AVE
EDISON, NJ 08837-3622



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September 21, 2018

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

Re: IBT Local 863 (PFG)
Case 22-CB-223632

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

We have carefully investigated and considered your charge that IBT Local 863 has violated 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 your charge for the following reasons:

The evidence adduced by the investigation is insufficient to establish your allegation that the Union failed and refused to process your grievance regarding the Employer's decision to terminate your employment in violation of Section 8(b)(1)(A) of the National Labor Relations Act.

In this regard, the investigation revealed that the Union considered and investigated your grievance regarding your (b) (6) 2018 termination and, after meeting with you and the Employer, negotiated a grievance settlement with the Employer providing for your reemployment. After you returned to work for one day, and the terms of the settlement were explained to you, you indicated that the terms of the agreement were not acceptable. The Union and the Employer advised you that you risked being permanently terminated if you failed to return to work by (b) (6), 2018. After you failed to return to work on (b) (6), (b) (7)(C), the Employer rescinded its offer to rehire you, ensuing in your permanent discharge. You have filed another grievance regarding your (b) (6), (b) (7)(C) 2018 discharge and that grievance is being processed.

It is well established that labor organizations are afforded a wide range of reasonableness in representing employees in grievances and absent discriminatory or other arbitrary factors, not present here, their decisions will not be overturned. See generally, *Vaca v. Sipes*, 386 U.S. 171 (1967); *Ford Motor Co. v. Huffman*, 345 U.S. 330 (1953); *Miranda Fuel Company, Inc.*, 140 NLRB 181 (1962). Based on the foregoing facts, and noting the absence of evidence of animosity by the Union towards you, I cannot conclude that the Union acted in an arbitrary or capricious manner in representing you. Therefore, I conclude that the Union has not violated the Act as alleged in your 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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/s/ David E. Leach III

David E. Leach III
Regional Director

Enclosure

cc: KENNETH I. NOWAK, ESQ.
ZAZZALI, FAGELLA, NOWAK,
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