



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 20
901 Market Street, Suite 400
San Francisco, CA 94103-1738

Agency Website: www.nlrb.gov
Telephone: (415)356-5130
Fax: (415)356-5156

November 21, 2018

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

Re: YRC Freight
Case 20-CA-226370

Teamsters Local 2785 (YRC Freight)
Case 20-CB-226841

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

We have carefully investigated and considered your charges that YRC Freight and Teamsters Local 2785 have violated the National Labor Relations Act.

Decision to Dismiss: Based on that investigation, I have decided to dismiss your charges for the reasons discussed below.

Your charge in Case 20-CA-226370 alleges that the Employer discriminated against you by failing to pay you backpay and benefits in order to discourage your protected concerted activities and/or activities or membership in the Union. The investigation disclosed that the Employer placed you on an approximate 5-month leave of absence due to a (b) (6), (b) (7)(C) and subsequently returned you to work once it received documentation of a (b) (6), (b) (7)(C) (b) (6), (b) (7)(C). Although you contend that the Employer refused to pay you backpay and benefits for the time that you were off of work because of your protected concerted activities, the investigation disclosed insufficient evidence to support this allegation. Additionally, there was no evidence of Employer animosity towards the Union or towards you because you requested the Union's assistance in this matter. In these circumstances, the evidence is insufficient to show that the Employer discriminated against you based on your protected activities.

Your charge in Case 20-CB-226841 alleges that the Union has restrained and coerced employees in the exercise of rights protected by Section 7 of the Act by refusing to process a grievance on your behalf regarding the Employer's failure to pay you backpay and benefits for arbitrary or discriminatory reasons or in bad faith. The investigation revealed that the Union filed a grievance regarding the Employer's failure to pay you backpay and benefits for the approximate 5-month period that it placed you on a leave of absence. The evidence established that the Union processed a grievance for you through the parties' grievance arbitration procedure and notified you on or around (b) (6), (b) (7)(C) 2018 that the Joint Council had upheld the Employer's denial of the grievance and that the Union would no longer pursue the grievance. A union breaches the duty of fair representation when it treats a bargaining unit member arbitrarily, discriminatorily, or in bad faith. *Vaca v. Sipes*, 386 U.S. 171, 190 (1967). A union's actions are considered arbitrary under the duty of fair representation "only if, in light of the factual and legal

landscape at the time of the union's behavior is so far outside a 'wide range of reasonableness' as to be irrational." *IAM Local Lodge 2777 (L-3 Communications)*, 355 NLRB 1062, 1064 (2010), quoting *Air Line Pilots Assn. v. O'Neill*, 499 U.S. 65, 67 (1991) and *Ford Motor Co. v. Huffman*, 345 U.S. 330, 337-339 (1953). The evidence in this case is insufficient to show that the Union relied on unlawful considerations when making its determination to no longer pursue your grievance. Accordingly, further proceedings are unwarranted.

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 **December 5, 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 December 4, 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** December 5, 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 December 5, 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/

JILL H. COFFMAN
Regional Director

Enclosure

cc: Ben Candelaria
YRC Freight
499 Valley Dr
Brisbane, CA 94005-1209

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Teamsters Local 2785
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November 23, 2018

James Allen, Attorney
922 Dry Valley Court
Villa Hills, KY 41017

Re: Teamsters Local 853 (Golden State
Lumber, Inc.)
Case 20-CB-205767

Dear Mr. Allen:

We have carefully investigated and considered your charge that Teamsters Local 853 has violated the National Labor Relations Act.

Decision to Dismiss: On November 16, 2017, I informed you of my intention to dismiss this charge in six months unless a new meritorious charge was filed within that time alleging that the Charged Party had committed additional violations of the Act that would make dismissal of your charge inappropriate. No such charge has been filed. Accordingly, I have concluded that further proceedings are not warranted, and I am dismissing 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.

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:

- 1) Click on E-File Documents;
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Electronic filing is preferred, but you also may use the enclosed Appeal Form, which is also available at www.nlrb.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 **December 7, 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

November 23, 2018

delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than December 6, 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** December 7, 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 December 7, 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/

JILL H. COFFMAN
Regional Director

Enclosure

cc: Stu Helfer, Recording Secretary
Teamsters Local 853
7750 Pardee Lane
Oakland, CA 94621-1497

James Allen, Labor Specialist
Golden State Lumber, Inc.
1100 Andersen Drive
San Rafael, CA 94901-5313

Sheila K. Sexton, Attorney
Beeson Tayer & Bodine
483 - 9th Street 2nd Floor
Oakland, CA 94607-4051



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November 20, 2018

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

Re: Service Employees International Union,
United Healthcare Workers West (Kaiser
Permanente)
Case 20-CB-226291

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

We have carefully investigated and considered your charge that Service Employees International Union, United Healthcare Workers West has violated the National Labor Relations Act.

Decision to Dismiss: Based on that investigation, I have decided to dismiss your charge because the charge was filed outside the period set forth in Section 10(b) of the Act. Section 10(b) of the Act provides that “no complaint shall issue based upon any unfair labor practice occurring more than six months prior to the filing of the charge with the Board and the service of a copy thereof upon the person against whom such charge is made.” The evidence in this case established that you were aware of the Union’s failure to communicate with you regarding the status of your grievance at least by sometime in 2013, yet your charge was not filed until 2018. In these circumstances, complaint cannot issue.

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:

- 1) Click on E-File Documents;
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Electronic filing is preferred, but you also may use the enclosed Appeal Form, which is also available at www.nlrb.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 **December 4, 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 December 3, 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/

JILL H. COFFMAN
Regional Director

Enclosure

cc: Dave Regan, President
Service Employees International Union,
United Healthcare Workers West
47 Kearny St Fl 4
San Francisco, CA 94108-5519

Service Employees International Union,
United Healthcare Workers West (Kaiser
Permanente)
Case 20-CB-226291

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November 20, 2018

Bruce A. Harland, Esq.
Weinberg, Roger & Rosenfeld
1001 Marina Village Pkwy. Ste. 200
Alameda, CA 94501-6430

Pat Kendall, Administrator
Kaiser Permanente
99 Montecillo Rd
San Rafael, CA 94903-3308



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November 30, 2018

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

Re: IATSE Local 16 (BGCA Management
LLC)
Case 20-CB-227808

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

We have carefully investigated and considered your charge that IATSE Local 16 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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Appeal Due Date: The appeal is due on **December 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 December 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

November 30, 2018

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/

JILL H. COFFMAN
Regional Director

Enclosure

cc: Manny Cabanas, Employer Representative
BGCA Management LLC
99 Grove Street
San Francisco, CA 94102-4799

James Beaumont, President
IATSE Local 16
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San Francisco, CA 94105-3115

Kristina L. Hillman, Attorney
Weinberg Roger & Rosenfeld
1001 Marina Village Pkwy Suite 200
Alameda, CA 94501



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November 30, 2018

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

Re: IATSE Local 16 (PSAV Presentation
Services)
Case 20-CB-230031

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

We have carefully investigated and considered your charge that IATSE Local 16 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/

JILL H. COFFMAN
Regional Director

Enclosure

cc: Aaron Guerrero, Supervisor
PSAV Presentation Services
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San Francisco, CA 94102-2116

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