



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 27
Byron Rogers Federal Office Building
1961 Stout Street, Suite 13-103
Denver, CO 80294

Agency Website: www.nlr.gov
Telephone: (303)844-3551
Fax: (303)844-6249

November 5, 2018

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

Re: United Food and Commercial Workers
Union, Local 7 (King Soopers)
Case 27-CB-223039

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

We have carefully investigated and considered your charge that United Food and Commercial Workers Union, Local 7 has violated the National Labor Relations Act.

Revocation of Approval of Withdrawal Request: By letter dated October 31, 2018, the undersigned approved a request to withdraw the subject charge. That letter issued in error and is hereby revoked.

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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Appeal Due Date: The appeal is due on **November 19, 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 November 18, 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 November 19, 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 November 19, 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/ *Paula S. Sawyer*

PAULA S. SAWYER
Regional Director

Enclosure

cc: Kim Cordova
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Wheat Ridge, CO 80033-6100

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Raja Raghunath, Esq.
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King Soopers, Inc.
3250 Centennial Blvd. Store #133
Colorado Springs, CO 80907-4077



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November 7, 2018

Steve Maritas, Organizing Director
Law Enforcement Officers Security Unions LEOSU, LEOS-PBA
1155 F. St NW
Ste. 1050
Washington, DC 20004-1329

Re: Service Employees International Union,
Local 105
Case 27-CB-226865

Dear Mr. Maritas:

We have carefully investigated and considered your charge that Service Employees International Union, Local 105 (Charged Party) has violated the National Labor Relations Act.

Decision to Dismiss: Based on that investigation, I have decided to dismiss your charge because formal proceedings will not effectuate the purposes of the Act.

Your charge alleges that the Charged Party restrained and coerced employees by engaging in surveillance of their activities in support of Law Enforcement Officers Security Unions (LEOSU). The evidence reveals that while an agent of the Charged Party positioned (b) (6), (b) (7)(C) near a meeting that LEOSU held with employees, the meeting took place in an open, public area without restriction on who could attend. In these circumstances, further proceedings would not effectuate the purposes of the Act because the conduct was limited, involved only a small fraction of the bargaining unit, and there was insufficient evidence that the Charged Party attempted to monitor the meeting in a covert fashion. Further, LEOSU had made recordings of the employees at the same meeting and uploaded the recordings to YouTube, thereby revealing the identities of employees at the meeting. Finally, there is no longer an active organizing campaign after the recent issuance of the Certification of Results. For these reasons, further proceedings are not warranted 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:

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Appeal Due Date: The appeal is due on **November 21, 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 November 20, 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** November 21, 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 November 21, 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.

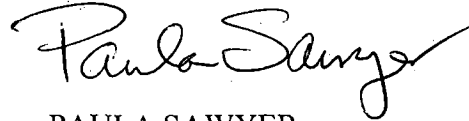
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Service Employees International Union,
Local 105
Case 27-CB-226865

- 3 - November 7, 2018

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,



PAULA SAWYER
Regional Director

Enclosure

cc: Ron Ruggiero, Pres.
Service Employees International Union,
Local 105
2525 W. Alameda Ave.
Denver, CO 80219-3010

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November 30, 2018

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

Re: APWU, Denver Metro Area Local
(United States Postal Service)
Cases 27-CB-227446
27-CB-227484

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

We have carefully investigated and considered your charges that APWU, Denver Metro Area Local (Union) has violated the National Labor Relations Act (Act).

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

Your charges allege that the Union breached its duty of fair representation in violation of Section 8(b)(1)(A) of the Act. More specifically, you allege that the Union failed and refused to file and process a grievance on your behalf over an alleged incident of (b) (6), (b) (7)(C) harassment involving a coworker. The investigation, however, established that you did not request that the Union file a grievance until after you filed and provided your evidence in the above-referenced charges. In these circumstances, your allegation that the Union refused to file a grievance on your behalf is not covered in these charges. Furthermore, even if you had made such a request prior to the filing of these charges, the Union is not obligated to file a grievance against another bargaining unit member. Rather, grievances are filed against the Employer for violating the terms of the collective bargaining agreement. Accordingly, there is insufficient evidence that the Union has failed to pursue grievances on your behalf, nor has it taken any actions that are unreasonable or based on unlawful considerations. While a Union (b) (6), (b) (7)(C) may not have agreed with you as to the severity of the alleged harassment by a coworker, there is insufficient evidence that the conversation would constitute an unlawful failure to represent you. There was also insufficient evidence that a Union (b) (6), (b) (7)(C) purposely provided you with an incorrect form. 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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November 30, 2018

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Very truly yours,

/s/ *Paula S. Sawyer*

PAULA S. SAWYER
Regional Director

Enclosure

cc: (b) (6), (b) (7)(C)
APWU, Denver Metro Area Local
15677 E. 17th Ave.
Aurora, CO 80011-4603

Roderick D. Eves, Deputy Managing Counsel
United States Postal Service
(Law Dept. - NLRB Unit)
1720 Market St., Rm. 2400
St. Louis, MO 63155-9948



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November 30, 2018

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

Re: SEIU, Local 105 (ISS)
Case 27-CB-227672

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

We have carefully investigated and considered your charge that SEIU, Local 105 (Union) has violated the National Labor Relations Act (Act).

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

Your charge essentially allege that the Union breached its duty of fair representation in violation of Section 8(b)(1)(A) of the Act by: (1) increasing your dues; (2) failing to request time off for you to attend a Union conference; (3) refusing to process a coworker's grievance to arbitration; and (4) assigning an inexperienced (b) (6), (b) (7)(C) to represent you and your coworkers. There is insufficient evidence to show that the Union has violated the Act as alleged, and I am dismissing your charge for the reasons discussed below.

With respect to your allegation that the Union unlawfully increased dues, the evidence established that the Employer announced to employees that there had been an administrative error and that dues should have been calculated to include paid time off. Accordingly, the Employer began deducting the additional dues owed. While you assert that the dues were calculated to include overtime, and that the collective bargaining agreement provides that dues are to be taken only from regular (straight) time, the Employer's notice to employees noted that all compensation that is *not* overtime would be subject to dues deduction. Accordingly, there is insufficient evidence that the dues increase was contrary to the contract or was otherwise unreasonable.

As to your allegation that the Union failed to request that the Employer grant you time off to attend a Union sponsored conference, this conduct, standing alone, does not rise to a violation of the Act. The failure to secure you time off to attend a union conference does not affect your terms and conditions of employment. Rather, it impacted your ability to participate in internal union matters. Furthermore, there is insufficient evidence that the Union's conduct was motivated by animus towards you or any other unlawful considerations.

With regard to your allegation regarding the Union's decision not to appeal a coworker's grievance to arbitration, the investigation disclosed that the Union processed the grievance through Step 2 of the grievance procedure. Thereafter, the Union decided not to pursue the grievance further. There is insufficient evidence that the Union's decision not to pursue the grievance further was based on animus towards you or your coworker, or any other arbitrary or discriminatory reason. Rather, the evidence shows that the Union based its decision on a reasonable evaluation of the facts and circumstances concerning the grievance. Because the Union's decision was based on a reasonable evaluation of the merits of the grievance, there is insufficient evidence to support a violation.

Likewise, there is insufficient evidence that the Union violated its duty of fair representation by assigning an inexperienced representative to represent the bargaining unit. The investigation disclosed that a (b) (6), (b) (7)(C) was assigned to represent the bargaining unit on about (b) (6), (b) (7)(C), 2018. The selection of a (b) (6), (b) (7)(C) representative with only limited experience, without more, does not establish that the Union has failed or refused to represent employees. Moreover, while a scheduled Union group meeting with the (b) (6), (b) (7)(C) representative had to be rescheduled by the (b) (6), (b) (7)(C) due to unforeseen circumstances, the investigation disclosed that the meeting has been rescheduled and that the (b) (6), (b) (7)(C) representative has been meeting with employees individually. Considering that the (b) (6), (b) (7)(C) representative was permanently assigned to represent the bargaining unit since (b) (6), (b) (7)(C) 2018 and that this charge was only filed on September 20, 2018, the delay in holding a group meeting is insufficient to establish a violation of the Act.

In sum, there is insufficient evidence to demonstrate that the Union violated the Act as alleged. The Union's actions with respect to each of your allegations do not establish that the Union has failed in its duty of fair representation. I am, therefore, 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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Very truly yours,

/s/ *Paula S. Sawyer*

PAULA S. SAWYER
Regional Director

Enclosure

cc: Ron Ruggiero
SEIU, Local 105
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