

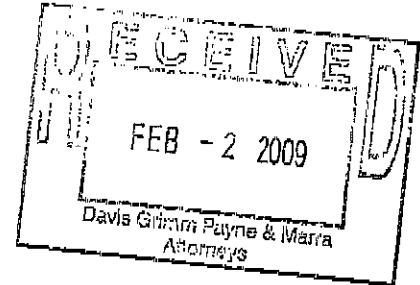


United States Government
NATIONAL LABOR RELATIONS BOARD
Region 19 -
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Seattle, Washington 98174-1078

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January 30, 2009

James A. McCall, Special Counsel
Teamsters Locals 81, 174, 231, 252, 324,
483, 589, 690, 760, 763, 839, and 962
25 Louisiana Ave NW
Washington, DC 20001



Re: Oak Harbor Freight Lines, Inc.
Case 19-CA-31597

Dear Mr. McCall:

The Region has carefully investigated and considered your charge against Oak Harbor Freight Lines, Inc. alleging violations under Section 8 of the National Labor Relations Act.

The investigation revealed that the Parties met beginning on or about September, 2007, and bargained, on more than 20 separate occasions, over the terms of a successor collective bargaining agreement. The Parties exchanged numerous proposals and counter proposals that resulted in tentative agreement on a significant number of issues. Further, on many issues on which the Parties were unable to find common ground, the investigation revealed that the Employer made concessions from its original proposals.

I further recognize however that the Employer engaged in conduct away from the table which is the subject of unfair labor practice charges (19-CA-31526, 31536, and 31538). That conduct, particularly the allegation of direct dealing through a drivers' committee at a crucial time in the negotiations, is the type of conduct which could undermine the Union's role as exclusive collective bargaining representative and could have a significantly negative impact on the atmosphere for good faith bargaining. Although the Employer formally disbanded the drivers' committee on or about October 9, 2008, I note that few bargaining sessions have occurred since either the formation of the committee or its dissolution. Under these circumstances, I cannot at this time conclude that the Employer has engaged in "surface bargaining." I will of course re-examine the issue if presented with any charge that good faith bargaining is not occurring in future negotiations. Based on the above, further proceedings are not warranted at this time, and I am refusing to issue a complaint in this matter.

Your Right to Appeal: The National Labor Relations Board Rules and Regulations permit you to obtain a review of this action by filing an appeal with the GENERAL COUNSEL of the National Labor Relations Board. Use of the Appeal Form (Form NLRB-4767) will satisfy this requirement. However, you are encouraged to submit a complete statement setting forth the facts and reasons why you believe that the decision to dismiss your charge was incorrect.

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The appeal may be filed by regular mail addressed to the General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1099 14th Street, N.W., Washington D.C. 20570-0001. A copy of the appeal should also be mailed to the Regional Director.

An appeal may also be filed electronically by using the E-filing system on the Agency's Website. In order to file an appeal electronically, please go to the Agency's Web site at www.nlr.gov and select the **E-Gov** tab and click on **E-Filing**. Scroll to the *General Counsel's Office of Appeals*. Select the type of document you wish to file electronically and you will navigate to detailed instructions on how to file an appeal electronically.

The appeal MAY NOT be filed by facsimile transmission.

Appeal Due Date: The appeal must be received by the General Counsel in Washington D.C. by the close of business at 5:00 p.m. (ET) on February 13, 2009. If you mail the appeal, it will be considered timely filed if it is postmarked no later than one day before the due date set forth above. If you file the appeal electronically, it also must be received by the General Counsel by the close of business at 5:00 p.m. (ET) on February 13, 2009. A failure to timely file an appeal electronically will not be excused on the basis of a claim that transmission could not be accomplished because the receiving machine was off-line or unavailable, the sending machine malfunctioned, or for any other electronic-related reason.

Extension of Time to File Appeal: Upon good cause shown, the General Counsel, may grant you an extension of time to file the appeal. You may file a request for an extension of time to file by mail, facsimile transmission, or through the Internet. The fax number is (202) 273-4283. Special instructions for requesting an extension of time over the Internet are set forth in the attached Access Code Certificate. While an appeal will be accepted as timely filed if it is postmarked no later than one day prior to the appeal due date, this rule does not apply to requests for extension of time. A request for an extension of time to file an appeal **must be received** on or before the original appeal due date. A request that is postmarked prior to the appeal due date but received after the appeal due date will be rejected as untimely. Unless filed through the Internet, a copy of any request for extension of time should be sent to me.

Confidentiality/Privilege: Please be advised that we cannot accept any limitations on the use of any appeal statement or evidence in support thereof provided to the Agency. Thus, any claim of confidentiality or privilege cannot be honored, except as provided by the FOIA, 5 U.S.C. 552, and any appeal statement may be subject to discretionary disclosure to a party upon request during the processing of the appeal. In the event the appeal is sustained, any statement or material submitted may be subject to introduction as evidence at any hearing that may be held before an administrative law judge. Further, we are required by the Federal Records Act to keep copies of documents used in our case handling for some period of years after a case closes. Accordingly, we may be required by the FOIA to disclose such records upon request, absent some applicable exemption such as those that protect confidential source, commercial/financial information or personal privacy interests (e.g., FOIA Exemptions 4, 6, 7(C) and 7(D), 5 U.S.C. § 552(b)(4), (6), (7)(C), and 7(D)). Accordingly, we will not honor any requests to place limitations on our use of appeal statements or supporting evidence beyond those prescribed by the foregoing laws, regulations, and policies.

Notice to Other Parties of Appeal: You should notify the other party(ies) to the case that an appeal has been filed. Therefore, at the time the appeal is mailed to the General Counsel, please complete

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the enclosed Appeal Form (NLRB-4767) and send one copy of the form to all parties whose names and addresses are set forth in this letter.

Sincerely,



Richard L. Ahearn
Regional Director

Enclosures

cc: Ronald Meisburg, General Counsel
National Labor Relations Board
Attn: Office of Appeals
1099 - 14th Street N.W.
Washington, D.C. 20570-0001

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