UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 17

GREATER OMAHA PACKING CO., INC.	**Cases 17-CA-085735**
	17-CA-085736
and	**17-CA-085737**
HEARTLAND WORKERS CENTER	

GREATER OMAHA PACKING CO., INC.'S
EXCEPTIONS TO THE DECISION
OF THE ADMINISTRATIVE LAW JUDGE

Respondent, Greater Omaha Packing Co., Inc., (hereinafter referred to as either "Greater Omaha" or the "Company") pursuant to Section 102.46 of the Rules and Regulations of the National Labor Relations Board, as amended, files these, its exceptions to certain portions of the Decision of Administrative Law Judge Arthur J. Amchan, dated December 27, 2012. Specifically, Greater Omaha takes exception to the following:

1. The ALJ's finding that Carlos Zamora was called into the supervisors' office "at Correa's direction." (p. 3, lines 2; 7).

2. The ALJ's finding that there is "no evidence" that other employees were disciplined or counseled for leaving their work stations without permission. (p. 3, footnote 4).

3. The ALJ's conclusion that the three alleged discriminatees "were sent to the office one right after another." (p. 6, footnote 8).

4. The ALJ's finding that "Salgado had to wait in the cafeteria because Correa was still in the meeting with Degante or busy with other matters." (p. 6, footnote 8).

5. The ALJ's conclusion that Greater Omaha did not have a policy requiring an employee to ask permission prior to leaving the line to use the restroom. (p. 6, footnote 9; p. 10, lines 21-22).

6. The ALJ's crediting of the discriminatees' accounts of what transpired on May 14, 2012. (p. 8, lines 29-31; p. 9, lines 10-11; p. 10, line 20).

7. The ALJ's conclusion that the incident for which Zamora was called to the supervisor's office, according to Respondent, constituted protected concerted activity. (p.8, lines 39-40).

8. The ALJ's conclusion that by calling Zamora to the office to counsel him violated Section 8(a)(1). (p. 8, lines 44-45).

9. The ALJ's discrediting of Respondent's testimony that it called Zamora into the supervisors' office to counsel him for leaving his work station. (p. 9, lines 1-2).

10. The ALJ's conclusion that "[t]here wasn't any reason for Correa to call Zamora in for counseling." (p. 9, lines 2-3).

11. The ALJ's conclusion that Garcia had already counseled Zamora for leaving his work station. (p. 9, lines 1-3).

12. The ALJ's crediting of Zamora's testimony that Greater Omaha fired him without attempting to counsel him. (p. 9, lines 4-5).

13. The ALJ's conclusion that "at a minimum" Greater Omaha was aware of Degante's protected activity regarding his testimony that he complained to his supervisor Robert Silva about the speed of the production line and his compensation and that Silva promised Degante to talk to Correa about these concerns. (p. 9, lines 6-10).

14. The ALJ's conclusion that Correa and Garcia knew about the planned strike. (p. 9, lines 11-12; p. 10, lines 24-25).

15. The ALJ's conclusion that Correa and Garcia knew or suspected that Degante was behind the planned strike. (p. 9, lines 11-12).

16. The ALJ's conclusion that Salgado engaged in protected activity in complaining to her supervisor, Alejandro Varela, about the speed of the production line. (p. 9, lines 14-15).

17. The ALJ's conclusion that Greater Omaha suspected Salgado of "playing a significant role in the plan for employees to walk off the job." (p. 9, lines 15-17).

18. The ALJ's conclusion that Salgado was discharged for the reason that Greater Omaha "suspected her of playing a significant role in the plan for employees to walk off the job." (p. 9, lines15-18).

19. The ALJ's crediting of the testimony of Zamora, Degante, and Salgado that a group of employees had discussed a plan to walk off the job at 10:00 on May 14, 2012. (p. 9, lines 20-21).

20. The ALJ's inference and conclusion that "by 10:00 the employees who planned to strike were worried about retaliation if they did so." (p. 9, lines 27-28).

21. The ALJ's conclusion that "[d]ue to the close proximity in which employees worked, those working with Zamora and Degante would have noticed that their supervisor, Tony Mora, had sent Zamora and Degante to the office." (p. 9, lines 28-30).

22. The ALJ's conclusion that employees would have noticed that by 10:00 Zamora and Degante had not returned from the supervisors' office. (p. 9, lines 28-30).

23. The ALJ's conclusion that Degante was a leader of the planned strike. (p. 9, lines 34-35).

24. The ALJ's conclusion that the fact that Degante was missing from the line at 10:00 likely dissuaded other employees from walking off the job. (p. 9, lines 34-36).

25. The ALJ's crediting of Degante's testimony and conclusion that "Garcia told Correa that Degante was the leader of the planned strike." (p. 9, footnote 12).

26. The ALJ's conclusion that employees working in close proximity to Degante would have attached significance to the absence of Degante from their production lines on May 14 if employees believed that he was a leader of a planned walk-out. (p. 9, lines 38-39, p. 10, lines 1-2).

27. The ALJ's conclusion that employees working in close proximity to Zamora would have attached significance to the absence of Zamora from their production lines on May 14 if employees were aware of Zamora's role in the "prior walk-out." (p. 9, lines 38-39, p. 10, lines 1-3).

28. The ALJ's conclusion that packing employees that were planning to strike "would have noticed that nobody from the cutting floor was walking off the job from the fact that the production line did not stop." (p. 10, lines 5-6).

29. The ALJ's conclusion that it would have been "difficult" for packing employees to leave their work station even if they had been planning on it because "the production line continued to run." (p. 10, lines 7-8).

30. The ALJ's conclusion that Greater Omaha's account of what occurred on May 14, 2012 is "extremely implausible." (p. 10, line 10, 33).

31. The ALJ's conclusion that "[i]t is particularly implausible that Degante and Salgado when faced with a demand from the plant manager that they abide by plant rules, would simply dig in their heels." (p. 10, lines 10-12).

32. The ALJ's conclusion that Correa discharged Salgado without warning because she defended her conduct. (p. 10, lines 14-15).

33. The ALJ's conclusion that Salgado's "precipitous discharge strongly suggests discriminatory motive" given her spotless disciplinary record. (p. 10, lines 16-17; p. 11, lines 1-2).

34. The ALJ's conclusion that it was disparate treatment for Greater Omaha not to consider giving Salgado a lesser form of discipline. (p. 10, lines 16-18).

35. The ALJ's discrediting of Greater Omaha's witnesses. (p. 10, lines 19-20; p. 11, lines 21-22).

36. The ALJ's conclusion that Zamora, Degante, and Salgado's terminations were discriminatory. (p. 10, line 20).

37. The ALJ's inference that the plan for a strike existed. (p. 10, line 24).

38. The ALJ's conclusion that Greater Omaha "bore animus" towards the employees involved in the plan for a strike. (p. 10, lines 24-25).

39. The ALJ's conclusion that Greater Omaha fired the three discriminatees to prevent the strike from occurring. (p. 10, lines 25-26).

40. The ALJ's conclusion that the discharges of Zamora, Degante, and Salgado were "virtually simultaneous" and were for "ostensibly unrelated reasons." (p. 10, lines 28-29).

41. The ALJ's conclusion that because Greater Omaha did not previously discharge Degante and Salgado for continuously violating the policies, the sudden discharge on May 14 is evidence that Greater Omaha's reasons for their discharges are pretextual. (p. 10, lines 35-40; p. 11, lines 22-25).

42. The ALJ's inference that Greater Omaha had already decided to terminate Zamora when it call security. (p. 11, lines 6-16).

43. The ALJ's finding that Degante and Salgado were also escorted out of the plant by security. (p. 11, footnote 13).

44. The ALJ's reliance on the pretextual nature of Greater Omaha's proffered reasons for the discharge in concluding that the General Counsel made his initial showing of discrimination. (p. 11, lines 18-19).

45. The ALJ's conclusion that Greater Omaha did not meet its burden of proving that it fired Zamora, Degante, and Salgado for non-discriminatory reasons. (p. 11, lines 18-21).

46. The ALJ's conclusion that the discharges of the three other employees supports a finding that Zamora, Degante, and Salgado were discriminatorily discharged because these forms contain an explanation for the discharge and a warning signed on the last day of employment. (p. 11, lines 27-31).

47. The ALJ's conclusions of law that Greater Omaha violated Section 8(a)(1) of the Act in discharging Carlos Zamora, Jorge Degante, and Susana Salgado on May 14, 2012. (p. 12, lines 3-4).

48. The ALJ's remedy in its entirety. (p. 12, lines 8-13).

49. The ALJ's proposed Order in its entirety. (p. 12, lines 20-37; p. 13, lines 2-33).

Based upon the foregoing stated Exceptions, and as supported by the accompanying Brief in Support of the Exceptions, on behalf of Respondent, Greater Omaha Packing Co., Inc., it is respectfully submitted that the unfair labor practice charge and Complaint herein be dismissed in its entirety.

Dated this 7th day of February, 2013.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 7th day of February 2013, the above and foregoing was emailed to the following:

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