



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 18
330 2nd Ave S Ste 790
Minneapolis, MN 55401-2214

Agency Website: www.nlr.gov
Telephone: (612)348-1757
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February 27, 2014

JOSEPH A. CACCIATORE
GRAHAM ERVANIAN CACCIATORE LLP
317 SIXTH AVENUE, SUITE 900
DES MOINES, IA 50309

Re: ANDERSON ERICKSON DAIRY CO.
Case 18-CA-120120

Dear Mr. CACCIATORE:

We have carefully investigated and considered your charge that ANDERSON ERICKSON DAIRY, INC. has violated the National Labor Relations Act.

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

Your charge alleges the Employer retaliated against you for your union activity and that this retaliation caused such a hostile work environment forcing you to resign from your employment. While the investigation revealed that you engaged in union activity and other concerted protected activities and that the Employer had knowledge of the activity, the evidence failed to establish your working conditions or the adverse employment actions taken against you were the result of Employer animus toward your union or other concerted protected activities. More specifically, the investigation revealed that you have engaged in union activity for a number of years; that you have also received a number of disciplines, including being terminated at one time, over the course of a number of years; but that the timing of the adverse employment actions are sporadic and not related in time to your union or other concerted protected activity. Finally, while you contend that you were forced to quit because the Employer created intolerable working conditions at the time you resigned your employment, the investigation revealed that the working conditions you complain of were the result of a grievance committee resolution, and not the result of an Employer adverse employment action.

Your Right to Appeal: You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals. If you appeal, you may use the enclosed Appeal Form, which is also available at www.nlr.gov. However, you are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect.

February 27, 2014

Means of Filing: An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. Filing an appeal electronically is preferred but not required. The appeal MAY NOT be filed by fax or email. To file an appeal electronically, go to the Agency's website at www.nlr.gov, click on **E-File Documents**, enter the **NLRB Case Number**, and follow the detailed instructions. 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, 1099 14th Street, N.W., Washington D.C. 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

Appeal Due Date: The appeal is due on **March 13, 2014**. 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 March 12, 2014. **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 March 13, 2014**. 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 March 13, 2014, **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,



MARLIN O. OSTHUS
Regional Director

Enclosure

cc: STACY HENSON, DIRECTOR OF HR
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