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American Postal Workers Union of Louisiana (United States Postal Service) and Nadira Davis-James, and Beverly Stokes and Leslie Davis. Cases 15–CB–241267, 15–CB–252320, and 15–CB–275776

January 14, 2022

DECISION AND ORDER

BY CHAIRMAN MCFERRAN AND MEMBERS RING
AND WILCOX

The General Counsel seeks a default judgment in this case on the ground that American Postal Workers Union of Louisiana (the Respondent) has failed to file an answer in the above captioned case.¹ On July 20, 2021, the Regional Director issued a consolidated complaint and notice of hearing that addressed charges filed by Nadira Davis-James (Davis-James), Beverly Stokes (Stokes), and Leslie Davis (Davis) (collectively, the Charging Parties) in case numbers 15–CB–241267, 15–CB–252320, and 15–CB–275776, respectively. The Charging Parties are unit employees at the United States Postal Service facilities in Baldwin and Addis, Louisiana, where the Respondent is charged with administering the collective-bargaining agreement between the United States Postal Service and the American Postal Workers Union, AFL–CIO. The Complaint alleged that the Respondent violated Section 8(b)(1)(A) of the Act by failing to represent the Charging Parties for reasons that are arbitrary, discriminatory, or in bad faith (including by failing to process and file the Charging Parties’ grievances), acting in breach of its fiduciary duty, and by restraining and coercing the Charging Parties in the exercise of their Section 7 rights. Although properly served copies of the charges and consolidated complaint, the Respondent failed to file an answer.

On August 20, 2021, the General Counsel filed a Motion to Transfer Proceedings to the National Labor Relations Board and for Default Judgment. On August 24, 2021 the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent did not file a response. The allegations in the motion are therefore undisputed.

Ruling on Motion for Default Judgment

Section 102.20 of the Board’s Rules and Regulations provides that the allegations in a complaint shall be

¹ The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. In addition, the consolidated complaint affirmatively stated that unless an answer was received by August 3, 2021, the Board may find, pursuant to a motion for default judgment, that the allegations in the complaint are true.² Further, the undisputed allegations in the General Counsel’s motion disclose that the Region, by letter dated August 4, 2021, notified the Respondent that unless an answer was received by August 11, 2021, a motion for default judgment would be filed. No answer or request for an extension of time to file an answer was received by that date. Accordingly, based on the Respondent’s failure to file an answer, we deem the allegations in the complaint to be admitted as true, and grant the General Counsel’s Motion for Default Judgment.

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

The United States Postal Service (the Employer) provides postal services for the United States and operates various facilities throughout the United States in performing that function, including the facilities involved in this proceeding in Baldwin, Louisiana (Baldwin Facility) and Addis, Louisiana (Addis Facility).

The Board has jurisdiction over the Employer and this matter by virtue of Section 1209 of the Postal Reorganization Act (PRA), 39 U.S.C. § 101 et seq.

We find that the Respondent and the American Postal Workers Union, AFL–CIO (National Union) are labor organizations within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

At all material times, the following individuals held the positions set forth opposite their respective names and have been agents of the Respondent within the meaning of Section 2(13) of the Act:

Mike Bishop	Vice President
Steven P. Breaux	President
Leroy Chapman	Clerk Craft Director/Local President
Jack Crawford	National Business Agent
Jackie White	Clerk Craft Director

At all material times, by virtue of Section 9(a) of the Act, the National Union has been the exclusive collec-

² *3H Service System, Inc.*, 369 NLRB No. 116 (2020); *Maislin Transport*, 274 NLRB 529 (1985).

tive-bargaining representative of the following employees of the Employer (the Unit):

All employees in the bargaining unit for which the National Union has been recognized and certified at the national level: maintenance employees, motor vehicle employees, postal clerks, mail equipment shops employees, material distribution centers employees, and operating services and facilities services employees; excluding managerial and supervisory personnel, professional employees, employees engaged in personnel work in other than a purely nonconfidential clerical capacity, security guards as defined in Public Law 91-375, 1201(2), all Postal Inspection Service employees, employees in the supplemental work forces as defined in Article 7 of the collective-bargaining agreement between Employer and the National Union, rural letter carriers, mail handlers, and letter carriers.

At all material times, the National Union and the Employer have maintained and enforced a collective-bargaining agreement covering the terms and conditions of employment of the Unit, including a grievance and arbitration procedure.

At all material times, the Respondent has been an agent of the National Union for purposes of administering the collective-bargaining agreement and representing the Employer's employees at the Employer's Baldwin Facility and Addis Facility.

Since about March 12, 2019, Davis-James, a member of the Unit, in writing, asked the Respondent to represent her during a meeting with the Employer regarding terms and conditions of employment. Since about March 12, 2019, the Respondent has failed to respond to Davis-James's request to represent her during the meeting. Since about April 1, 2019, Davis-James, in writing, asked the Respondent to represent her regarding a debit letter from the Employer. Since that time, the Respondent has failed to respond to Davis-James's request to represent her regarding the debit letter. Since about April 1, 2019, the Respondent has failed to file a grievance on behalf of Davis-James regarding a debit letter from the Employer which Davis-James requested to file under the provisions of the collective-bargaining agreement.³

³ The record contains a settlement agreement dated January 21, 2021 in Case 15-CB-241267, entered between the Respondent and Nadira-Davis, which pertains to the "debit grievance [Nadira-Davis] sought to file regarding the debit letters she received from the [Employer]." However, as stated above, the General Counsel's consolidated complaint issued July 21, 2021, maintains the 8(b)(1)(A) allegations related to Davis-James's debit letter grievance. Accordingly, we shall order that the Respondent process Davis-James's debit letter grievance with due diligence under the collective-bargaining agreement, unless it is shown that the matter has been resolved under the terms of January 21, 2021 settlement agreement.

Since about June 12, 2019, the Respondent has failed to process a grievance relating to the assignment of hours that Stokes, a member of the Unit, requested to file under the provisions of the collective-bargaining agreement.

Since about October 27, 2020, the Respondent has failed to file and/or process grievances under the provisions of the collective-bargaining agreement, requested by Davis, a member of the Unit, relating to the Employer's assignment of hours to Davis, the Employer's conversion of Davis to a full-time position, Davis not being paid the correct wage for certain work she performed, and uniforms.

The Respondent's above conduct was arbitrary and perfunctory and by engaging in such conduct, the Respondent has failed to represent Davis-James, Stokes, and Davis for reasons that are arbitrary, discriminatory, or in bad faith and has breached the fiduciary duty it owes the Charging Parties.

Furthermore, the Respondent has failed to respond to Stokes's and Davis's written and oral requests for information about the status of their grievances. Stokes asked the Respondent, in writing, to provide information about the status of her grievance relating to the assignment of hours at the Employer's facility, on or about the following dates: June 17, 18, 21, and 26, 2019. About June 22, 2019, Stokes orally asked the Respondent to provide information about the status of her grievance relating to the assignment of hours at the Employer's facility. Since about June 17, 2019, and the dates listed, the Respondent has failed to provide Stokes with information about the status of her grievance relating to the assignment of hours at the Employer's facility.

On or about the following dates, Davis asked the Respondent, in writing to provide information about the status of her grievances relating to her conversion to full-time employment, correcting the wage amount for certain work she performed, and uniforms: November 19 and 24, 2020, December 3, 4, 10, and 28, 2020 and January 7, 8, 11, 27, and 29, 2021, February 2, 9, and 24, 2021, March 17, 2021, and May 3, 2021. Davis also orally asked the Respondent to provide information about the status of her grievances on or about the following dates: October 27, 2020, November 19 and 24, 2020, March 4, 11, 12, and 17, 2021, and May 10, 2021. Since about October 27, 2020, and the dates listed, the Respondent has failed to provide Davis with information about the status of her grievances.

By the Respondent's above-described conduct, the Respondent has been restraining and coercing the Charging Parties in the exercise of their Section 7 rights guaranteed under the Act.

CONCLUSIONS OF LAW

By the conduct described above in connection with its representative status, the Respondent has failed to represent Charging Parties Nadira Davis-James, Bethany Stokes, and Leslie Davis for reasons that are arbitrary, discriminatory, or in bad faith and has breached the fiduciary duty it owes to said employees.

By the conduct described above, the Respondent has been restraining and coercing the Charging Parties in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(b)(1)(A) of the Act and within the meaning of the PRA.

REMEDY

Having found that the Respondent violated Section 8(b)(1)(A), we shall order that the Respondent promptly process the grievances requested and described herein by Davis-James, Stokes, and Davis, and to pursue the grievances in good faith with due diligence, including permitting Davis-James, Stokes, and Davis to have counsel, at the Respondent's expense, present at the grievance-arbitration proceedings. If it is no longer possible for the Respondent to pursue the grievances that Davis-James, Stokes, and Davis requested, and if the General Counsel of the Board shows in a subsequent compliance proceeding that such grievances would have been successful if the Respondent had timely pursued them, the General Counsel also requests that the Respondent be ordered to make Davis-James, Stokes, and Davis whole for any loss of earnings and other benefits suffered as a result of the Employer having breached the collective-bargaining agreement in the manner described in the grievances that Davis-James, Stokes, and Davis attempted to file.

Having found that the Respondent has been restraining and coercing unit employees and in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(b)(1)(A) of the Act and within the meaning of the PRA by not responding to Stokes and Davis about the status of their grievances after their numerous requests, we shall order the Respondent to promptly inform Stokes and Davis about the status of their grievances in response to their requests since June 17, 2019, and October 27, 2020, respectively.

ORDER

The National Labor Relations Board orders that the Respondent, American Postal Workers Union of Louisiana, New Orleans, Louisiana, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Breaching its fiduciary duty of fair representation, as an agent of the American Postal Workers Union, AFL-CIO (National Union), that is owed to the employ-

ees it represents covered in the unit below by failing, in a manner that is arbitrary, discriminatory or in bad faith, to process the grievances of Nadira Davis-James, Bethany Stokes, and Lesley Davis under the provisions of the collective-bargaining agreement between the National Union and the United States Postal Service (Employer). The Respondent, as an agent of the National Union, represents and administers the collective-bargaining agreement that covers the employees in the following unit at the Employer's Baldwin and Addis, Louisiana facilities (Unit):

All employees in the bargaining unit for which the National Union has been recognized and certified at the national level: maintenance employees, motor vehicle employees, postal clerks, mail equipment shops employees, material distribution centers employees, and operating services and facilities services employees; excluding managerial and supervisory personnel, professional employees, employees engaged in personnel work in other than a purely nonconfidential clerical capacity, security guards as defined in Public Law 91-375, 1201(2), all Postal Inspection Service employees, employees in the supplemental work forces as defined in Article 7 of the collective-bargaining agreement between Employer and the National Union, rural letter carriers, mail handlers, and letter carriers.

(b) Not responding to Nadira Davis-James's requests for representation at meetings with the Employer relating to her terms and conditions of employment and a debit letter she received from the Employer.

(c) Not responding to and/or not providing information to Bethany Stokes and Lesley Davis about the status of their respective grievances.

(d) In any like or related manner restraining or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Promptly request that the Employer consider the debit letter grievance of Nadira Davis-James and, if the Employer agrees to do so, process the grievance with all due diligence in accordance with the collective-bargaining agreement grievance and arbitration procedure, unless the matter has been previously resolved under the terms of a settlement agreement.

(b) Promptly request that the Employer consider the grievances of Bethany Stokes and Lesley Davis and, if the Employer agrees to do so, process the grievances with due diligence in accordance with the collective-bargaining agreement grievance and arbitration procedure.

(c) Permit Nadira Davis-James, Bethany Stokes, and Lesley Davis, who are Unit employees, to be represented by their own counsel at any grievance proceeding, including arbitration or other resolution proceeding, and pay the reasonable legal fees of such.

(d) In the event that it is not possible for the Respondent to pursue the grievances, and if the General Counsel shows in a compliance proceeding that the grievances, if timely pursued would have been successful, make Nadira Davis-James, Bethany Stokes, and Lesley Davis whole for any increases in damages suffered as a consequence of the Respondent's failure to process their grievance in good faith, with interest, in the manner set forth in the remedy section of this decision.

(e) Promptly inform, Nadira Davis-James, Bethany Stokes and Lesley Davis about the status of their respective grievances.

(f) Post at the Employer's Baldwin, Louisiana and Addis, Louisiana facilities copies of the attached notice marked "Appendix."⁴ Copies of the notice, on forms provided by the Regional Director for Region 15, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its members by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

(g) Within 21 days after service by the Region, file with the Regional Director for Region 15 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

⁴ If the facilities involved in these proceedings is open and accessible to a substantial complement of employees, the notices must be posted within 14 days after service by the Region. If the facility involved in these proceedings is closed due to the Coronavirus pandemic, the notices must be posted within 14 days after the facility reopens and a substantial complement of employees have regained access, and the notices may not be posted until a substantial complement of employees have regained access. Any delay in the physical posting of paper notices also applies to the electronic distribution of the notice if the Respondent customarily communicates with its members by electronic means. If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

Dated, Washington, D.C. January 14, 2022

Lauren McFerran, Chairman

John F. Ring, Member

Gwynne A. Wilcox, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

APPENDIX

NOTICE TO MEMBERS

POSTED BY ORDER OF THE

NATIONAL LABOR RELATIONS BOARD

An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

- Form, join, or assist a union
- Choose representatives to bargain on your behalf with your employer
- Act together with other employees for your benefit and protection
- Choose not to engage in any of these protected activities.

At all material times by virtue of Section 9 (a) of the Act, the Respondent, American Postal Workers Union of Louisiana, an agent of the American Postal Workers Union, AFL-CIO (National Union), has been the exclusive collective-bargaining representative of the following employees covered in the below unit at the Employer's Baldwin and Addis, Louisiana facilities (Unit):

All employees in the bargaining unit for which the National Union has been recognized and certified at the national level: maintenance employees, motor vehicle employees, postal clerks, mail equipment shops employees, material distribution centers employees, and operating services and facilities services employees; excluding managerial and supervisory personnel, professional employees, employees engaged in personnel work in other than a purely nonconfidential clerical capacity, security guards as defined in Public Law 91-

375, 1201(2), all Postal Inspection Service employees, employees in the supplemental work forces as defined in Article 7 of the collective-bargaining agreement between Employer and the National Union, rural letter carriers, mail handlers, and letter carriers.

WE WILL NOT breach our duty of fair representation, as an agent of the National Union, by failing to process grievances for reasons that are arbitrary, discriminatory, or in bad faith.

WE WILL NOT fail to respond to your request for us to represent you at meetings with your Employer that relate to terms and conditions of employment.

WE WILL NOT fail to respond to your requests about the status of your grievance filed pursuant to the National Union and the Employer's collective-bargaining agreement.

WE WILL NOT in any like or related manner restrain or coerce you in the exercise of the rights listed above.

WE WILL promptly request the Employer to consider the debit letter grievance of Nadira Davis-James and, if the Employer agrees to do so, process the grievance with all due diligence in accordance with the collective-bargaining agreement grievance and arbitration procedure, unless the matter has been previously resolved under a settlement agreement.

WE WILL promptly request the Employer to consider the grievances of employees Bethany Stokes and Leslie Davis and, if the Employer agrees to do so, process the grievances with due diligence in accordance with the collective-bargaining agreement grievance and arbitration procedure.

WE WILL permit the Nadira Davis-James, Bethany Stokes, and Leslie Davis, who are Unit employees to be represented by their own counsel at any grievance pro-

ceeding, including arbitration or other resolution proceeding, and pay the reasonable legal fees of such counsel.

WE WILL, in the event that it is not possible for us to pursue the grievances, and if the General Counsel shows in a compliance proceeding that, if timely pursued, the grievances would have been successful, make Nadira Davis-Jones, Bethany Stokes, and Lesley Davis whole for any increases in damages suffered as a consequence of our failure to process their grievances in good faith, with interest.

WE WILL promptly inform Bethany Stokes and Lesley Davis about the status of their grievances in response to their requests.

AMERICAN POSTAL WORKERS UNION OF
LOUISIANA

The Board's decision can be found at www.nlr.gov/case/15-CA-241267 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.

