

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

GERAWAN FARMING, INC.,)	Case No. 2013-MMC-003
)	
)	39 ALRB No. 17
Employer,)	(39 ALRB No. 16)
)	(39 ALRB No. 13)
and)	(39 ALRB No. 11)
)	(39 ALRB No. 5)
UNITED FARM WORKERS OF)	
AMERICA,)	(November 19, 2013)
)	
<u>Petitioner.</u>)	

DECISION AND ORDER

The United Farm Workers of America (“UFW”) filed a declaration on March 29, 2013 requesting Mandatory Mediation and Conciliation (“MMC”) with the employer, Gerawan Farming, Inc. (“Gerawan”), pursuant to Labor Code section 1164, subdivision (a)(1). On April 16, 2013, the Board issued *Gerawan Farming, Inc. (2013) 39 ALRB No. 5*, finding that all statutory prerequisites had been met and referring the parties to the MMC process. The parties met with mediator Matthew Goldberg on several occasions in June and August of this year, but were unable to voluntarily agree to all terms of a collective bargaining agreement. Accordingly, pursuant to the authority of Labor Code section 1164, subdivision (d), the mediator issued a report, dated September 28, 2013, fixing the terms of a collective bargaining agreement.

On October 15, 2013, Gerawan filed a Petition and Brief in Support for Request for Review of the Mediator’s Report. In its petition, Gerawan contested the propriety of numerous provisions in the collective bargaining agreement fixed by the

mediator. Gerawan also reiterated various arguments that the Board previously addressed and rejected in *Gerawan Farming, Inc.* (2013) 39 ALRB No. 5 and in *Gerawan Farming, Inc.* (2013) 39 ALRB No. 13.

In *Gerawan Farming, Inc.* (2013) 39 ALRB No. 16, the Board granted review as to six provisions of the mediator's report and remanded the matter to the mediator, in accordance with Labor Code section 1164.3, subdivision (c), to meet with the parties as necessary to address those provisions and issue a second report. In all other respects, the Board found that Gerawan failed to show that the mediator's findings of material fact were clearly erroneous, or that the provisions fixed in his report were arbitrary or capricious in light of his findings of fact.

The parties subsequently met among themselves and with the mediator and were able to agree on all six of the provisions remanded by the Board. The mediator issued his second report, dated November 6, 2013, incorporating the agreed upon provisions. No party filed a request for review of the mediator's second report.

ORDER

Pursuant to Labor Code section 1164.3, subdivision (d), the mediator's second report shall take immediate effect as a final order of the Board. The findings and conclusions of the Board set forth in *Gerawan Farming, Inc.* (2013) 39 ALRB No. 5, *Gerawan Farming, Inc.* (2013) 39 ALRB No. 11, *Gerawan Farming, Inc.* (2013) 39 ALRB No. 13 and *Gerawan Farming, Inc.* (2013) 39 ALRB No. 16 are incorporated

herein by reference. Those orders, together with the Order herein, shall constitute the final order of the Board subject to review pursuant to Labor Code section 1164.5.

DATED: November 19, 2013

Genevieve A. Shiroma, Chairwoman

Cathryn Rivera-Hernandez, Member

Herbert O. Mason, Member

CASE SUMMARY

GERAWAN FARMING, INC.
(United Farm Workers of America)

Case No. 2013-MMC-003
39 ALRB No. 17

Background

The United Farm Workers of America (“UFW”) filed a declaration on March 29, 2013 requesting Mandatory Mediation and Conciliation (“MMC”) with the employer, Gerawan Farming, Inc. (“Gerawan”), pursuant to Labor Code section 1164, subdivision (a)(1). On April 16, 2013, the Board issued *Gerawan Farming, Inc.* (2013) 39 ALRB No. 5, finding that all statutory prerequisites had been met and referring the parties to the MMC process. The parties were unable to voluntarily agree to all terms of a collective bargaining agreement. Accordingly, pursuant to the authority of Labor Code section 1164, subdivision (d), the mediator issued a report, dated September 28, 2013, fixing the terms of a collective bargaining agreement. On October 15, 2013, Gerawan filed a Petition and Brief in Support for Request for Review of the Mediator’s Report. In its petition, Gerawan contested the propriety of numerous provisions in the collective bargaining agreement fixed by the mediator. Gerawan also reiterated various arguments that the Board previously addressed and rejected in *Gerawan Farming, Inc.* (2013) 39 ALRB No. 5 and in *Gerawan Farming, Inc.* (2013) 39 ALRB No. 13. In *Gerawan Farming, Inc.* (2013) 39 ALRB No. 16, the Board granted review as to six provisions of the mediator’s report and remanded the matter to the mediator, in accordance with Labor Code section 1164.3, subdivision (c), to meet with the parties as necessary to address those provisions and issue a second report. In all other respects, the Board found that Gerawan failed to show that the mediator’s findings of material fact were clearly erroneous, or that the provisions fixed in his report were arbitrary or capricious in light of his findings of fact. The parties subsequently met among themselves and with the mediator and were able to agree on all six of the provisions remanded by the Board. The mediator issued his second report, dated November 6, 2013, incorporating the agreed upon provisions.

Board Decision

No party filed a request for review of the mediator’s second report. Therefore, pursuant to Labor Code section 1164.3, subdivision (d), the Board ordered that the mediator’s second report take immediate effect as a final order of the Board. The Board incorporated by reference its earlier decisions that addressed various claims made by Gerawan. Those orders, together with this Order, constitute the final order of the Board subject to review pursuant to Labor Code section 1164.5.

This Case Summary is furnished for information only and is not an official statement of the case or of the ALRB.