

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

TURCO DESERT COMPANY, INC.,)	Case No. 00-CE-29-EC
)	
Respondent,)	27 ALRB No. 4
)	
and)	(July 30, 2001)
)	
ALBERTO B. RAMIREZ,)	
)	
Charging Party.)	
_____)	

DECISION AND ORDER

On May 31, 2001, Administrative Law Judge (ALJ) Douglas Gallop issued the attached Decision in this matter. Thereafter, Turco Desert Company, Inc., (Respondent or Employer) timely filed exceptions to the Decision along with a supporting brief, and General Counsel filed an answering brief.

The Board has considered the record and the ALJ's decision in light of the exceptions and briefs of the parties, and has decided to affirm the ALJ's rulings, findings and conclusions,¹ and to issue the attached Order.

¹ With regard to our review of the ALJ's analysis of concerted activity, we do not rely solely on his finding that Ramirez was speaking about a group concern in the presence of others, but rather on the sum total of additional facts supported by the record, namely that Ramirez was intervening on behalf of another employee, that he was instigating group activity, and the perception by the employer that Ramirez's comments were of group concern. (See, e.g., *T.T. Miyasaka, Inc.* (1990) 16 ALRB No. 16 at ALJ Dec., pp. 15-19; *Meyers Industries* (1986) 218 NLRB No. 118; and *Gourmet Farms, Inc.* (1984) 10 ALRB No. 41.)

ORDER

By authority of California Labor Code section 1160.3, the Agricultural Labor Relations Board hereby orders that Respondent, Turco Desert Company, Inc., its officers, agents, successors, and assigns shall:

1. Cease and desist from:

(a) Discharging, or otherwise discriminating against, any agricultural employee for participating in concerted protected activity.

(b) In any like or related matter interfering with, restraining, or coercing any agricultural employee(s) in the exercise of rights guaranteed them by Labor Code section 1152.

2. Take the following affirmative actions which are deemed necessary to effectuate the purposes of the Act:

(a) Offer to Alberto B. Ramirez immediate reinstatement to his former or a substantially equivalent position without prejudice to his seniority or other rights and privileges of employment.

(b) Reimburse Alberto B. Ramirez for all wage losses and other economic losses he has suffered as a result of Respondent's discrimination against him, such losses to be computed in accordance with Board precedent. Such amounts shall include interest thereon, computed in accordance with our Decision and Order in *E.W. Merritt Farms* (1988) 14 ALRB No. 5.

(c) Preserve and, upon request, make available to this Board or its agents, for examination, photocopying, and otherwise copying, all payroll records, social security payment records, time cards, personnel records and reports, and all other records relevant and necessary to a determination, by the Regional Director, of the amounts of backpay and interest due under the terms of the Order.

(d) Sign the attached Notice to Agricultural Employees, and, after its translation by a Board agent into appropriate languages, reproduce sufficient copies in each language for the purposes set forth below.

(e) Mail copies of the attached Notice, in all appropriate languages, within 30 days after the date this Order becomes final or when directed by the Regional Director, to all agricultural employees employed by Respondent during the period May 2, 2000 to May 1, 2001.

(f) Post copies of the attached Notice for 60 days at conspicuous locations on its premises, the places of posting to be determined by the Regional Director, and exercise due care to replace any Notice which has been altered, defaced, covered, or removed. Pursuant to the authority granted under Labor Code section 1151(a), give agents of the Board access to its premises to confirm the posting of copies of the attached Notice.

(g) Provide a copy of the attached Notice in all appropriate languages to each agricultural employee hired by Respondent during the 12-month period following the date this order becomes final.

(h) Upon request of the Regional Director, provide the Regional Director with the dates of its next peak season. Should the peak season have already begun at the time Regional Director requests peak season dates, Respondent will inform the Regional Director of when the present peak season began and when it is anticipated to end in addition to informing the Regional Director of the anticipated dates of the next peak season.

(i) Arrange for a representative of Respondent or Board agents to read the attached Notice in all appropriate languages to the assembled agricultural employees of Respondent on company time, at times and places to be determined by the Regional Director. Following the reading, Board agents shall be given the opportunity, outside the presence of supervisors and management, to answer any questions employees have concerning the Notice or their rights under the Act. The Regional Director shall determine a reasonable rate of compensation to be paid by Respondent to all non-hourly wage employees to compensate them for time lost at this reading and during the question and answer period.

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(j) Notify the Regional Director in writing, within 30 days after the date this Order becomes final, of the steps Respondent has taken to comply with it. Upon request of the Regional Director, Respondent shall notify him periodically thereafter in writing as to what further steps it has taken in compliance with the order.

Dated: July 30, 2001

GENEVIEVE A. SHIROMA, Chairwoman

IVONNE RAMOS RICHARDSON, Member

GLORIA A. BARRIOS, Member

HERBERT O. MASON, Member