UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES

ALTORFER INC.

Case 25–CA–327736

and

INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 150, a/w INTERNATIONAL UNION OF OPERATING ENGINEERS, AFL–CIO

Jacob Butcher, Esq.,
for the General Counsel.
Joshua Holleb, Esq.,
for the Respondent.
Charles Kiser and *Catherine Schlabowske, Esqs.*,
for the Charging Party.

Decision

GEOFFREY CARTER, Administrative Law Judge. The General Counsel asserts in this case that Altorfer, Inc. (Respondent) violated Section 8(a)(3) and (1) of the National Labor Relations Act (the Act) by, in October 2023, unlawfully interrogating employee Trevor Kappelman, and a few days later terminating Kappelman because he engaged in union and protected concerted activities. As explained below, I have determined that Respondent violated the Act, but only by unlawfully interrogating Kappelman.

STATEMENT OF THE CASE

The trial in this case was held in person on June 16–17, in Peoria, Illinois. The International Union of Operating Engineers, Local 150, affiliated with International Union of Operating Engineers, AFL–CIO (Charging Party or Local 150) filed the unfair labor practice charge in this case on October 11, 2023. On February 19, 2025, the General Counsel issued a complaint and notice of hearing to allege that Respondent violated Section 8(a)(3) and (1) of the Act by: on about October 4, 2023, interrogating employees about their union membership, activities, and sympathies, and the union membership, activities, and sympathies of other employees; and on about October 9, 2023, terminating employee Trevor Kappelman because he formed, joined, and assisted Local 150 and engaged in concerted activities, and to discourage employees from engaging in those activities. Respondent filed a timely answer denying the alleged violations in the complaint.[1]

[1] In its answer to the complaint, Respondent asserted, as an affirmative defense, that aspects of the Act and its regulations are unconstitutional. Since Respondent failed to raise or develop that affirmative defense during the hearing or in its posttrial brief, I find that Respondent has waived the affirmative defense. See *Wisconsin Bell, Inc.*, 346 NLRB 62, 64 fn. 8 (2005).

On the entire record,[2] including my observation of the demeanor of the witnesses and after considering the briefs filed by the General Counsel, Charging Party, and Respondent, I make the following findings, conclusions of law, and recommendations.

FINDINGS OF FACT[3]

I. JURISDICTION

Respondent, a corporation with an office and place of business in East Peoria, Illinois, has been engaged in the business of selling, renting, servicing, and repairing construction equipment. During the calendar year ending on December 31, 2022, a representative period of time, Respondent purchased and received goods at its East Peoria, Illinois, facility that are valued in excess of $50,000 and came directly from points outside the State of Illinois. Respondent admits, and I find, that it is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act. Respondent also admits, and I find, that Local 150 is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

A. Background

As part of its services, Respondent repairs Caterpillar construction equipment (e.g., bulldozers, excavators). For some customers, repairs occur in Respondent's shop in East Peoria, Illinois, with the repair work completed by a shop technician. For other customers, Respondent dispatches field service technicians to do repairs at a construction site or other location designated by the customer. During the relevant time period, Respondent employed about 15 field service technicians, each of whom generally was assigned a service truck with tools and other equipment to use to perform repairs. (Tr. 17–20, 78–80, 82–83, 197–199, 241–242.)

To manage these and other operations in summer and fall 2023, Respondent relied on store manager Fred Campbell, shop supervisor and interim field service supervisor J.D. Smith (hereafter referred to as field service supervisor Smith), and field service coordinator Austin Huntemann. Respondent admits, and I find, that Campbell, Smith, and Huntemann each were Respondent's supervisors within the meaning of Section 2(11) of the Act. (Tr. 21–22, 81–83, 239–241, 286.)

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[2] The transcripts and exhibits in this case generally are accurate, but I hereby make the following transcript corrections: p. 39, ll. 19, 24: Mr. Holleb was the speaker; p. 42, l. 7: "There are many rules – not to discuss." should be "The main rule is not to discuss what"; p. 87, l. 16: "unit" should be "union"; p. 109, l. 5: "Altor" should be "Altorfer"; p. 233, l. 11: "student" should be "steward"; p. 251, ll. 17, 22: Judge Carter was the speaker; p. 284, l. 20: "15" should be "915"; p. 315, l. 13: "unaware" should be "under oath"; p. 324, l. 10: "2–25" should be "2:25"; p. 325, ll. 18, 21: Mr. Butcher was the speaker; and p. 331, l. 23: "several" should be "settlement".

[3] Although I have included several citations in this decision to highlight particular testimony or exhibits in the evidentiary record, I emphasize that my findings and conclusions are not based solely on those specific citations, but rather are based on my review and consideration of the entire record for this case.

For several years, the International Union of Operating Engineers Locals 399 and 841 have been the exclusive collective-bargaining representatives of employees in the following appropriate bargaining unit:

> All employees classified as field technicians, shop technicians, welders, painters, interns, helpers, painter's aides, assemblers, yard facilitators, and electricians at the Company's Illinois heavy equipment locations within the geographic jurisdiction of Operating Engineers Locals 841 and 399.

(R. Exh. 1, Art. I (collective-bargaining agreement effective July 2, 2020, through May 4, 2025).) Local 399 served as the exclusive collective-bargaining representative for technicians and other bargaining unit employees working out of Respondent's East Peoria location. (Tr. 22–23, 78, 89, 190, 198–199, 285.)

B. June 2023: Trevor Kappelman Begins Working for Respondent

1. Hire and initial training period

In about early May 2023, Trevor Kappelman learned from a union representative for Local 150 that Respondent was hiring field service technicians. Kappelman, who had been working as a shop technician for another employer, applied for and was hired as a field service technician for Respondent. (Tr. 83–85, 121–123, 285; R. Exh. 2 (Kappelman's job application, noting that Local 150 referred him for the position with Respondent).)

Kappelman began working for Respondent as a field service technician on about June 12, 2023. As part of his training, Kappelman spent 1 month working with resident field service technician[4] and Local 399 field service steward Brian Friedrich (steward Friedrich) to assist with service calls and learn Respondent's policies and procedures. Kappelman also completed various training sessions that Respondent provided. As a new employee, Kappelman was subject to a probationary period of 120 calendar days.[5] (Tr. 77, 80–82, 138–140, 199–202, 225–226; R. Exh. 1, Art. X (sec. 2); see also Tr. 201 (Friedrich testimony that Kappelman seemed to know what he was doing regarding repairing equipment).)

2. Kappelman's ongoing communications with Local 150

Under the collective-bargaining agreement for Local 399, field service technician Kappelman had 70 days to apply for membership in the union (Local 399). Kappelman, however, had concerns about maintaining benefits that he accrued with Local 150, and thus communicated a few times with Local 150 business agent Darrell Paulson about how he (Kappelman) might transfer his union membership to Local 399 while maintaining and/or using his Local 150 accrued benefits and perhaps avoiding some or all of the cost of a transfer fee.

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[4] As a resident field service technician, Friedrich was dispatched to job sites from his home and had a roster of established customers who could call him directly with repair requests. (Tr. 196–197.)

[5] Kappelman testified that he believed that the probationary period lasted 120 working days. (Tr. 81.) I do not credit that testimony because the collective-bargaining agreement explicitly states that the probationary period for new employees lasts 120 calendar days. (R. Exh. 1, Art. X (Sec. 2).)

Kappelman also spoke with steward Friedrich about some of these issues. Since Kappelman's questions about these issues remained unresolved, Kappelman did not become a member of Local 399 and maintained his Local 150 membership throughout his employment with Respondent. Local 399, however, never raised a concern about Kappelman's failure to become a member. (R. Exh. 1, Art. 3 (sec. 2(B); Tr. 86–89, 126–127, 156–157, 219.) There is no evidence that Respondent was aware of Kappelman's communications with Local 150 in this time period.

C. July 2023: Kappelman Assigned a Truck; J.D. Smith Begins Supervising Kappelman

1. Job assignment practices

When making assignments to field service technicians, Respondent uses a computer program (ServiceLink) to upload jobs that the technician can see on their laptop 2 or 3 days in advance. Additional jobs may come in overnight or over the course of the day, however, and if the new job is a priority, the Respondent might direct a technician (by telephone or text message) to handle the new job before handling other assignments. Technicians generally go on the clock at 7 a.m., and are compensated for driving time to and from their assignments. (Tr. 159–160, 233–235, 241–243; see also Tr. 235–236, 258, 279 (explaining that if a technician has downtime, e.g., because a necessary part was delayed, the technician can clean or work on their truck, complete paperwork, and/or complete online safety training modules).)

2. Friction between Kappelman and field service supervisor Smith

In about mid-July 2023, Respondent assigned field service technician Kappelman to a service truck and began dispatching him to job sites on his own. Also in about mid-July, Respondent reassigned shop supervisor J.D. Smith to the position of field service supervisor, and thus Smith began assigning work to and supervising Kappelman. (Tr. 80–81, 286.)

By about late July, Kappelman and Smith were getting frustrated with each other. In Smith's view, Kappelman was often resistive to assignments that were farther away from his (Kappelman's) home and thus required more driving time. In addition, Smith believed that Kappelman did things his own way instead of adopting company procedures unless given a specific instruction from management. Kappelman, meanwhile, did not think that Smith communicated well about assignments, which left Kappelman: unclear on what work he should be doing after going on the clock at 7 a.m.; and concerned that Smith was making Kappelman look bad because it would seem like Kappelman had too much idle time and was not working. Smith and Kappelman, however, did not have a conversation in this time period to address/resolve these issues. (Tr. 128, 149–150, 154–156, 160–161, 245–248, 256–258, 260, 274–275, 281; see also Tr. 245 (Smith described Kappelman's "resistive" attitude as an attitude of questioning why Smith was asking him to do something).)

D. August 7, 2023: Local 150 Business Agent Visits Job Site

In about late July or early August 2023, Local 150 business agent Paulson called field service technician Kappelman to see if it might be possible for Paulson to meet other field

technicians who were working for Respondent in East Peoria. After giving the matter some thought, Kappelman suggested that Paulson visit a job site where Kappelman would be working on August 7. (Tr. 90–91.)

As proposed, business agent Paulson visited the jobsite where Kappelman and steward Friedrich were assigned on August 7. While Kappelman and Friedrich were taking their break time, Paulson asked Friedrich about the jurisdiction lines between Locals 150 and 399, and asked if any of Respondent's field technicians were working in Local 150's area. Paulson also asked Kappelman and Friedrich to sign a petition card for Local 150. Kappelman signed the card, but Friedrich declined. (Tr. 91–96, 213–216, 219–220; see also Tr. 97, 214 (indicating that the discussion lasted somewhere between 20–45 minutes).)[6]

At some point after meeting Paulson, Friedrich called field service supervisor Smith and mentioned that a Local 150 representative approached him on a job site and asked about membership. Smith replied that the situation was "odd and against policy" because there should not be soliciting "while you're on company time."[7] During trial, Smith indicated that it was implied during the phone call with Friedrich that Kappelman was involved in having the Local 150 representative (Paulson) visit the job site.[8] (Tr. 249–250, 275–277.)

A few weeks later, Friedrich told store manager Campbell about Paulson's August 7 visit to the job site. Friedrich mentioned to Campbell that he felt uncomfortable that the meeting with Paulson lasted as long as it did, and mentioned Paulson's interest in having Local 150 represent Respondent's field service technicians. There is no evidence that Campbell asked Friedrich about Kappelman's relationship to or activities with Local 150. (Tr. 216–217, 220, 226–229.)

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[6] Kappelman and Friedrich had spoken previously about Local 150, in part because Friedrich was interested in how things work in different unions. During those discussions, Kappelman suggested that Local 150 should be representing Respondent's field service technicians. Friedrich responded that employees tried that once before with another union and it did not work out. (Tr. 213.)

[7] The "Non-Solicitation Policy" set forth in Respondent's employee handbook states as follows:

> In an effort to assure a productive and harmonious work environment, persons not employed by the Company may not solicit or distribute literature in the workplace at any time for any purpose.
>
> Employees may not solicit for outside events, organizations or activities during working time. Working time does not include meal, break or rest periods, or other specified times during the work shift where employees are not engaged in performing their work tasks. Also, for the same reason and to avoid litter, no employee is permitted to distribute literature in working areas at any time.
>
> Examples of solicitation not allowed include: The collection of money, goods, or gifts for religious and political groups; The sale of goods, services, or subscriptions; The circulation of petitions; The solicitation of memberships, fees, or dues.

(GC Exh. 3, pp. 21–22.)

[8] Smith also testified that he doubted that the discussion with the Local 150 representative occurred during a lunch break. (Tr. 250.) I give little weight to that testimony because Smith's testimony on that point lacked foundation and was speculative.

E. Late August 2023: Additional Workplace Conflict

1. Disagreements between Kappelman and Smith

As of late August 2023, field service technician Kappelman and field service supervisor Smith continued to be in conflict about job assignments. Kappelman remained concerned about have idle time during his work hours, and also was concerned about receiving job assignments that were far away and would result in Kappelman earning overtime and thereby (in Kappelman's view) create problems with members of Local 399.[9] In addition, Kappelman asked Smith for compensatory time (instead of overtime) to enable Kappelman to take time off to complete training classes or work on his service truck. Smith declined, stating that Respondent did not provide compensatory time and emphasizing that it was a priority to complete the work assignments that Respondent's customers needed. When Kappelman complained to steward Friedrich about Smith's assignment practices, Friedrich suggested that Kappelman should keep quiet about those issues because Kappelman was still a probationary employee. (Tr. 140–144, 151–152, 161–162, 204–205, 207–208, 256–257; see also Tr. 144–145 (Kappelman admitting during trial that the collective-bargaining agreement did not provide for compensatory time in exchange for working overtime).)

Beyond assignments, Kappelman also expressed frustration to Friedrich about the condition of Kappelman's service truck (particularly whether the truck was fully equipped). Friedrich advised Kappelman to be patient with that issue since, in Friedrich's view, it was more likely that Respondent would provide Kappelman additional equipment over a gradual period of time. (Tr. 205–206.)

In about late August, store manager Campbell checked in with Friedrich to ask how things were going with Kappelman. Friedrich told Campbell that Kappelman was capable of performing the field service work that Respondent assigned, but added that he had never seen a probationary employee act like Kappelman (regarding Kappelman's tendency to question how management handled assignments and other issues). (Tr. 206–207, 209, 224–225, 229–230.)

2. Kappelman's communication with service clerk

In about late August, service clerk Allison Lohrenz was at work at Respondent's facility when Kappelman asked if two high-visibility shirts that he needed were available (new employees typically receive five high-visibility shirts with Respondent's logo; Kappelman previously only received three shirts because that was all that was available in his size).[10] Lohrenz responded that unfortunately the additional shirts were not available because they were on back order. Kappelman then angrily complained about not having the additional shirts,

[9] Kappelman testified that probationary employees were not allowed to earn overtime unless all Local 399 members gave permission. (Tr. 140–141.) The collective-bargaining agreement for Local 399, however, does not say that probationary employees have any restrictions on earning overtime. (See R. Exh. 1, Arts. VII and X.) Accordingly, I give little weight to Kappelman's testimony that he was restricted from earning overtime.

[10] Lohrenz ended her employment with Respondent in about October 2023, and testified at trial in this case pursuant to a subpoena. (Tr. 174.)

stating that it was exhausting for him to have to do laundry as soon as he came home from work every day. Lohrenz apologized that the shirts were delayed and indicated that she could not assist Kappelman further with the issue at that time. Field service supervisor Smith overheard the discussion and checked in with Lohrenz afterwards to make sure that she was okay and encourage Lohrenz to speak to store manager Campbell or human resources if she had a similar incident in the future. Smith did not take any action to follow up with or discipline Kappelman based on the incident. (Tr. 145, 153–154, 157, 176, 178–182, 250–255; see also Tr. 182–184 (Lohrenz testimony that management promised that, moving forward, they would handle any communications with Kappelman instead of Lohrenz, and that in general, Kappelman "carried himself very disgruntled, slouching, huffing and puffing around, mumbling under his breath, more so than what other technicians would do").)[11]

F. Early October 2023: Kappelman Meets with Managers

1. October 3–4 dispute about assignments

On about October 3, field service technician Kappelman and field service supervisor Smith exchanged the following text messages about obtaining a part for a job assignment on October 4:

Kappelman:	Parts ordered for tomorrow. Ep33230 segment 2. I ordered a sensor and says back ordered. Should I order the assembly 591-3429 instead?
Smith:	No I have to send an email for release of that part. Part is coming out of California. I have it on next day air [UPS]. We will know more by 9:00 tomorrow
Kappelman:	Ok. If the back up camera comes in I can go get that done tomorrow
Smith:	Possibly. We will see how the needs are in the field
Kappelman:	Ok

(GC Exh. 10; see also Tr. 320, 324.)

[11] Lohrenz and Kappelman provided conflicting testimony about whether this incident occurred in about early July (per Lohrenz, see Tr. 186) or late August (per Kappelman, see Tr. 153). I have credited Kappelman's testimony about the timing of the incident since his testimony on that point is (to a small extent) an admission that favors Respondent since it shows that Kappelman was having conflict with other employees further into his time with the company.

Lohrenz and Kappelman also provided conflicting testimony about whether Kappelman used profanity during the discussion with Lohrenz. (Compare Tr. 154 with 179–180.) Since I found Lorhenz and Kappelman to be equally credible on that point, I have given the benefit of the doubt to Kappelman and find that he did not use profanity in the discussion.

Finally, Lohrenz and Smith provided conflicting testimony about whether the interaction with Kappelman occurred in person or over the phone. (Compare Tr. 179–181 with Tr. 252.) That conflict in the testimony is not material to my analysis.

In the morning of October 4, Kappelman and Smith exchanged the following additional text messages:

> Kappelman: Got a job for me
>
> Smith: Review your text from yesterday. It is laid out as to what direction we are taking for today. I have confirmed that the sensor for [jobsite name] is on the UPS truck for 9:00 delivery
>
> Kappelman: Ok I'll come to the shop
>
> Smith: Swing by my office when you get here please

(GC Exh. 10; Tr. 97–98, 100–101, 318–319, 321–322.)

Also in the morning on October 4, Kappelman texted store manager Campbell to express his concern about the lack of clarity in Smith's assignment instructions (it is not clear if Kappelman's text to Campbell preceded or followed Smith's text asking Kappelman to stop by his office). Kappelman sent a screenshot of the October 3 text messages that he and Smith exchanged, and stated as follows:

> Good morning sir, I'm not really meaning to stir the pot. This is what I deal with and I'm not sure how I am suppose[d] to handle these situations. Wait? Try to dig up work till I have an answer? If I wait then I feel like times wasted and I'm going to be at fault[12]

(GC Exh. 11; see also Tr. 98, 322–324.)[13]

[12] Kappelman testified that store manager Campbell, via text message, agreed with Kappelman that Smith's communication was poor. (Tr. 98.) I do not credit that testimony because the General Counsel presented the October 4 text message that Kappelman sent to Campbell (see GC Exh. 11) but did not present a response text message from Campbell, let alone a text message from Campbell with the content that Kappelman described.

[13] Kappelman also testified that in early October, he spoke to steward Friedrich about a safety issue with Kappelman's truck. Specifically, Kappelman testified that one of the outriggers on his truck was not working properly, causing the truck to be unstable when he tried to use the truck's crane to pick up heavier items. Kappelman stated that he noted this safety issue on several written reports and asked Smith for time to work on his truck, and then asked Friedrich about the problem, prompting Smith to object that Kappelman went behind Smith's back. (Tr. 99–100, 315–318.) I have given little weight to this testimony. First, Kappelman's testimony lacks corroboration, as there are no written reports in the record about this safety issue, and Friedrich did not corroborate Kappelman's testimony (see Tr. 206). Second, Kappelman gave conflicting descriptions of how Friedrich responded to Kappelman's concerns, first testifying that Friedrich suggested that Kappelman work on the truck while at a job site, and later testifying that Friedrich called another supervisor about getting Kappelman's truck fixed because Smith was not addressing the problem. (Compare Tr. 99–100 with Tr. 137.) Due to these issues, I do not find Kappelman's testimony about this issue to be sufficiently reliable.

2. October 4 meeting with Kappelman and managers

When Kappelman arrived at Respondent's facility in the morning on October 4, Smith indicated they would have a meeting with store manager Campbell. At Kappelman's request, steward Kenneth Miller attended the meeting since steward Friedrich was not available. After Campbell asked Kappelman and Smith what was going on, Kappelman said that they were having issues due to Smith's poor communication, and that if Smith treated his (Smith's) boss or wife like he treated Kappelman, then Smith would be fired and Smith's wife would have left him. Kappelman added that he thought Smith was belittling him. In response, Smith asked Kappelman for an example of how Smith belittled him. When Kappelman did not provide one, Smith said that if he treated employees the way Kappelman described, then Smith would not have been as successful as he had been as one of Respondent's managers. Smith added that early in his time working with Kappelman, Kappelman was disrespectful when Smith asked if Kappelman had completed some paperwork related to a job and Kappelman stood his ground and said he had already done so. (Tr. 98–99, 101–102, 104–105, 131–134, 147, 149–151, 191–192, 209–210, 260–263, 288–290, 293, 313; see also Tr. 132–133, 136–137 (Kappelman acknowledging that he was aggravated at the start of the meeting).)

Next, Smith asked if Kappelman had been in contact with any other employees or unions on company time and at a job site because that would be against policy and was generating some complaints from other field technicians. Kappelman indicated that he was in contact with another union (Local 150), but only when he was on a break. Smith then asked why Kappelman was in contact with a union besides Local 399, prompting Kappelman to explain that he was still a member of Local 150 and that he had insurance and benefits with Local 150. Smith questioned whether Kappelman could be a member of two unions at one time, and asked if Kappelman had filed paperwork to withdraw from Local 150. Smith added that in his experience, it was an easy procedure to withdraw from one union and join another while retaining benefits from the original union. Kappelman said that he had not withdrawn from Local 150 yet because he had not received an answer about retaining his Local 150 benefits. Campbell then stated that while he was not sure if it was possible to simultaneously be a member of two different unions, those issues were union issues and not issues for him to deal with.[14] (Tr. 105–109, 264–268, 291–296; see also GC Exh. 3 (p. 21) ("Non-Solicitation Policy" in Respondent's employee handbook), set forth in Findings of Fact (FOF), sec. II(D), supra).)

Towards the end of the meeting, Kappelman apologized for (allegedly) disrespecting Smith early on in their time working together. Smith, meanwhile, promised to improve communications by reaching out to Kappelman by phone to provide more details instead of relying on text messages. Campbell then asked Kappelman how other aspects of the job were going, and shortly thereafter the meeting ended on a positive note (i.e., with Kappelman and Smith having cleared the air about their communication issues).[15] (Tr. 110–111, 113, 268, 290,

[14] To the extent that Kappelman testified that Smith made additional remarks about Kappelman's union activities during this part of the meeting, I have not credited that testimony because it is not sufficiently corroborated. I also note that the question of whether Smith made additional remarks is arguably moot since I have found that Respondent unlawfully interrogated Kappelman based on the factual findings in this paragraph. (See Discussion and Analysis, sec. (B)(3), infra.)

[15] Kappelman testified that during the meeting: he briefly mentioned the safety issues with his truck;

294, 307–308, 312; see also Tr. 103, 294 (explaining that the entire conversation lasted 15–30 minutes), 306–307 (noting that Campbell did not use the October 4 meeting to discuss or gather information about whether Respondent should retain Kappelman after the 120–day probationary period).)

G. October 9, 2023: Respondent Terminates Kappelman

1. October 5–8: Campbell talks to employees about Kappelman

By early October, the end of field technician Kappelman's 120–day probationary period was approaching. Accordingly, a few days after the October 4 meeting, store manager Campell contacted field service supervisor Smith to ask his opinion of Kappelman as a potential long-term employee. Smith indicated that he did not think Kappelman would be a good long-term fit for the company, citing: Kappelman's resistive manner; Kappelman's interactions with other field technicians; Kappelman's interaction with service clerk Lohrenz;[16] and complaints from other field technicians. (Tr. 269–270, 280–281, 297–299, 308–309; see also 270–271, 287–288, 305 (noting that in about late September 2023, Smith expressed concerns to Campbell about Kappelman pushing back on assignments that were far from Kappelman's home).)

Campbell also spoke with steward Friedrich who, consistent with what he had stated periodically since Kappelman started working for Respondent, reported that Kappelman could do the job but had an attitude that might not fit in. Specifically, Friedrich indicated that Kappelman: wanted everything on his service truck to be perfect and new; argued with his supervisors; and questioned Respondent's practices regarding paperwork and other matters. Friedrich also said that he did not appreciate Kappelman inviting a Local 150 representative to the job site. Ultimately, Friedrich told Campbell that he did not know if it was worth the headache to retain Kappelman even though Respondent needed employees. (Tr. 212–213, 217–219, 221, 231, 299–300, 309–310.)

After receiving input from Smith and Friedrich, Campbell consulted with a member of Respondent's human resources department and the business agent for Local 399. After those consultations, Campbell decided that Respondent should terminate Kappelman. (Tr. 309–310.)

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and managers said that Kappelman had been doing the best among field technicians on certain assignments. (Tr. 103, 111, 157–158.) Cambell, Miller, and Smith were the other meeting participants and none of them corroborated these aspects of Kappelman's testimony. (See, e.g., Tr. 269, 294–295.) Accordingly, I have not credited Kappelman's testimony on these points because his testimony is against the weight of the evidence.

[16] Smith did not recall telling Campbell about the incident with Lohrenz, but Campbell testified that Smith mentioned that incident in their discussion about Kappelman. (Compare Tr. 270 with Tr. 297–298.) I have credited Campbell's testimony because he demonstrated good recall of his discussion with Smith, and because it stands to reason that Smith, who had his own frustrations with Kappelman, would have mentioned Kappelman's incident with Lohrenz as an example of Kappelman being difficult with other employees.

2. October 9: Kappelman terminated

On October 9, Campbell contacted Kappelman and asked him to come to the office. In a meeting that took place after Kappelman arrived, Campbell (with field service supervisor Smith and steward Friedrich present) advised that Respondent had decided to terminate Kappelman while he was still in his 120–day probationary period because Respondent did not think that Kappelman would work out as a long-term employee. Campbell did not provide further reasoning for Respondent's decision or issue a termination letter to Kappelman, and Kappelman had not previously received any written discipline or "employee accountability notices" (notices that Respondent issues to make a record of disciplinary matters or verbal coaching). (Tr. 25–26, 28–29, 34–35, 47–49, 77, 83, 113–117, 221–223, 271–273, 282, 301–303, 309–310.)

On an "Altorfer Employee Change of Status/Termination" form regarding Kappelman, Respondent indicated as follows:

> Reason for termination: End of Probationary Period
>
> Comments: Trevor will soon reach the end of his probationary period. We have decided to terminate Trevor and do not elect to extend his probationary term at this time.

(GC Exh. 4; Tr. 30–32, 45–46; see also GC Exh. 8 (p. 2) (unemployment insurance paperwork showing that Respondent provided the same explanation as above for Kappelman's termination).)

During trial, Campbell testified that Respondent terminated Kappelman because Kappelman was resistant to work assignments, "was not the nicest individual to a service clerk [Lohrenz] we had at the time," and had communication issues with field service supervisor Smith. (Tr. 26–28, 307–308; see also Tr. 313 (Kappelman's personal remarks to Smith during the October 4 meeting did not factor into Campbell's decision to terminate Kappelman).)

3. Respondent's policies regarding probationary employees

The collective-bargaining agreement between Respondent and Local 399 includes the following provision regarding probationary employees:

> There shall be a probationary period of one hundred twenty (120) calendar days when hiring an employee. During this period, the employee shall have no right to notice of layoff or termination of employment. A probationary employee receiving an overall evaluation that is not acceptable to the Company may have their probationary period extended for another sixty (60) calendar days at the sole discretion of the Company.

(R. Exh. 1, Art. X (sec. 2); Tr. 23; see also Tr. 67–68 (indicating that employees who are not part of the bargaining unit do not have a 120–day probationary period).)

Respondent's employee handbook states (after listing examples of workplace infractions), that the list of infractions in the handbook "is not meant to be inclusive or to limit in any way the Company's freedom to terminate an employee at any time, for any reason, with or without advance notice." (GC Exh. 3 (p. 41).)

During trial, Campbell testified that, based on these provisions (particularly the employee handbook), Respondent did not have to explain its grounds for terminating a probationary employee. (Tr. 311, 326–329; see also Tr. 70–74 (director of human resources Jamie Hampton's testimony that under the collective-bargaining agreement, Respondent may terminate a probationary employee at any time and is not required to provide cause or supporting documentation).)

4. Comparator information

During trial, the General Counsel presented evidence about three other employees that Respondent terminated in 2022 and 2023. As it did with Kappelman, Respondent prepared an employee change of status/termination form for each of the three employees. The three employees' files also included the following information and documentation:

Name	**Termination Date and Rationale**	**Supporting Documentation**
A.B. (technician; bargaining unit member)	June 21, 2023 – refusal to take random drug test	Termination notice describing the drug test incident – June 21, 2023
A.D. (parts counter employee; not a member of the bargaining unit)	October 19, 2022 – attendance	Employee accountability notification and final written warning regarding absences and tardiness – October 10, 2022
A.T. (technician; bargaining unit member)	June 5, 2023 – poor work quality and dishonesty; employee was within the 120–day probationary period	Employee accountability notification regarding poor work quality – May 22, 2023 Employee accountability notification regarding poor quality of work and lack of honesty when questioned about an installation error – June 2, 2023

(GC Exhs. 5–7; Tr. 29–30, 36–39, 50–55, 68–69, 72–74; see also GC Exh. 4 (Kappelman's employee change of status/termination form).)

DISCUSSION AND ANALYSIS

A. Credibility Findings

A credibility determination may rely on a variety of factors, including the context of the witness' testimony, the witness' demeanor, the weight of the respective evidence, established or admitted facts, inherent probabilities, and reasonable inferences that may be drawn from the record as a whole. Credibility findings need not be all-or-nothing propositions — indeed, nothing is more common in all kinds of judicial decisions than to believe some, but not all, of a witness' testimony. *Farm Fresh Co., Target One, LLC*, 361 NLRB 848, 860 (2014) (noting that an administrative law judge may draw an adverse inference from a party's failure to call a witness who may reasonably be assumed to be favorably disposed to a party, and who could reasonably be expected to corroborate its version of events, particularly when the witness is the party's agent). To the extent that credibility issues arose in this case, I have stated my credibility findings in the Findings of Fact above.

B. Did Respondent Make any Statements that Violated Section 8(a)(1) of the Act?

1. Complaint allegations

The General Counsel alleges that on about October 4, 2023, Respondent violated Section 8(a)(1) of the Act by interrogating employees about their union membership, activities, and sympathies, and the union membership, activities, and sympathies of other employees.

2. Applicable legal standard

"The Board has long held that the standard to be used in analyzing statements alleged to violate Section 8(a)(1) is whether they have a reasonable tendency to coerce employees in the exercise of their Section 7 rights. Intent is immaterial. The Board considers the totality of circumstances in assessing the reasonable tendency of an ambiguous statement or a veiled threat to coerce. Whether or not the employee changed their behavior in response is not dispositive, nor is the employee's subjective interpretation of the statement. The Board therefore considers the total context of the alleged unlawful conduct from the viewpoint of its impact on employees' free exercise of their rights under the Act." *Lush Cosmetics, LLC*, 372 NLRB No. 54, slip op. at 3 (2023) (quotation marks and citations omitted); see also *NCRNC, LLC d/b/a Northeast Center for Rehabilitation*, 372 NLRB No. 35, slip op. at 10 (2022) (explaining that when analyzing alleged threats, the Board asks whether the threat would reasonably tend to interfere with, restrain, or coerce an employee in the exercise of the employee's Section 7 rights, and noting that the test is an objective one, not based on subjective coerciveness), enfd. 94 F.4th 67 (D.C. Cir. 2024).

When deciding unlawful interrogation allegations, the Board applies a totality of the circumstances analysis to determine whether the interrogation was coercive. That analysis includes consideration of the following factors: whether the employer has a history of hostility toward or discrimination against union or protected concerted activity; the nature of the information sought; the identity of the interrogator and the interrogator's placement in the

employer's hierarchy; the place and method of the questioning; and the truthfulness of the employee's reply to the questioning. *Garten Trucking LC*, 373 NLRB No. 94, slip op. at 1 (2024); see also *Rossmore House*, 269 NLRB 1176, 1178 & fn. 20 (1984), affd. sub nom *HERE, Local 11 v. NLRB*, 760 F.2d 1006 (9th Cir. 1985).

3. Analysis

In an October 4 meeting that began with a discussion about communication issues that field service technician Kappelman and field service supervisor Smith were having, Smith pivoted to asking Kappelman if he had been in contact with any other employees or unions on company time at a job site because such activity would be against company policy. When Kappelman responded that he had met with a representative for another union (Local 150) while he was on a break, Smith asked why Kappelman was speaking to a union other than Local 399, and also asked if Kappelman had taken steps to withdraw from Local 150. (FOF, sec. II(F)(2).)

Turning to the relevant factors for evaluating whether Smith's questioning of Kappelman was unlawfully coercive, I find that the nature of information that Smith sought was problematic. Smith implied that Kappelman was violating company policy by speaking to a Local 150 representative at a job site, and also implied that Kappelman was acting improperly by speaking to a union other than Local 399. Those questions, along with Smith's questions about whether Kappelman had taken steps to withdraw from Local 150, sent a message that Kappelman should sever his ties with Local 150.

I also find that the identity of the interrogators was coercive. Smith was Kappelman's direct supervisor and questioned Kappelman in the presence of store manager Campbell, the senior official at the East Peoria facility. While Kappelman had a union steward (Miller) present during the discussion, Miller was a steward for Local 399 and was not familiar with Kappelman since Miller was filling in for steward Friedrich, who was not available. Thus, Kappelman was essentially on his own in defending his connections to Local 150 to two of Respondent's managers, with limited (if any) assistance from the steward.

I find that the remaining factors are either neutral or weigh in Respondent's favor. The General Counsel did not show that Respondent has a history of hostility towards or discrimination against union or protected concerted activity. To the contrary, Respondent has an established relationship with a union (Local 399), though of course that may have been why Smith raised questions about Kappelman's activities with Local 150. I also note that the place and method of questioning was not particularly remarkable, and Kappelman replied truthfully to Smith's questions.

Considering all factors and the totality of the circumstances, I find that Smith's questioning of Kappelman was unlawfully coercive. At its core, the questioning made it clear that Respondent did not want Kappelman to have a connection to Local 150 or bring Local 150 representatives to job sites. That message had a reasonable tendency to coerce Kappelman in the exercise of his Section 7 rights, and accordingly I find that Respondent violated Section 8(a)(1) of the Act by, on about October 4, unlawfully interrogating Kappelman about his union and

protected concerted activities and the union and protected concerted activities of other employees.

C. Did Respondent Violate the Act When it Terminated Kappelman?

1. Complaint allegations

The General Counsel alleges that Respondent violated Section 8(a)(3) and (1) of the Act by terminating field service technician Kappelman on about October 9, 2023, because he formed, joined, and assisted Local 150 and engaged in protected concerted activities, and to discourage employees from engaging in those activities.

2. Applicable legal standard

The legal standard for evaluating whether an adverse employment action violates Section 8(a)(3) of the Act is generally set forth in *Wright Line*, 251 NLRB 1083, 1089 (1980), enfd. 662 F.2d 899 (1st Cir. 1981), cert. denied 455 U.S. 989 (1982). To sustain a finding of discrimination, the General Counsel must make an initial showing that the employee's union or other protected activity was a motivating factor in the employer's decision. The elements commonly required to support such a showing are union or protected concerted activity by the employee, employer knowledge of that activity, and animus against union or other protected activity on the part of the employer. *Intertape Polymer Corp.*, 372 NLRB No. 133, slip op. at 6 (2023), enfd. 2024 WL 2764160 (6th Cir. 2024). Proof of discriminatory motivation (animus) can be based on direct evidence or can be inferred from circumstantial evidence based on the record as a whole. Circumstantial evidence of discriminatory motivation may include, among other factors: the timing of the action in relation to the union or other protected conduct; contemporaneous unfair labor practices; shifting, false, or exaggerated reasons offered for the action; failure to conduct a meaningful investigation; departures from past practices; and disparate treatment of the employee. Id., slip op. at 6–7; *Medic One, Inc.*, 331 NLRB 464, 475 (2000).

If the General Counsel makes the required initial showing, then the burden of persuasion shifts to the employer to establish, as an affirmative defense, that it would have taken the same action even in the absence of the employee's union or protected activity. In order to meet that burden in circumstances where the employer maintains that the employee engaged in misconduct, the employer need not prove that the disciplined employee committed the misconduct alleged. Instead, the employer only needs to show that it had a reasonable belief that the employee committed the alleged offense and that it acted on that belief when it took the disciplinary action against the employee. *Intertape Polymer Corp.*, 372 NLRB No. 133, slip op. at 7; *McKesson Drug Co.*, 337 NLRB 935, 937 fn. 7 (2002); see also *Bally's Atlantic City*, 355 NLRB 1319, 1321 (2010) (explaining that where the General Counsel makes a strong initial showing of discriminatory motivation, the respondent's rebuttal burden is substantial), enfd. 646 F.3d 929 (D.C. Cir. 2011). The General Counsel may offer proof that the employer's reasons for the personnel decision were false or pretextual. When the employer's stated reasons for its decision are found to be pretextual – that is, either false or not in fact relied upon – discriminatory motive may be inferred but such an inference is not compelled. *Electrolux Home*

Products, 368 NLRB No. 34, slip op. at 3 (2019) (noting that the Board may infer from the pretextual nature of an employer's proffered justification that the employer acted out of union animus where the surrounding facts tend to reinforce that inference). A respondent's defense does not fail simply because not all the evidence supports its defense or because some evidence tends to refute it. Ultimately, the General Counsel retains the burden of proving discrimination. *Farm Fresh Co., Target One, LLC*, 361 NLRB at 861.

3. Analysis

On October 9, 2023, Respondent notified field service technician Kappelman that he was being terminated because he was nearing the end of his 120–day probationary period. Kappelman did not have a record of any prior warnings or discipline. During trial, store manager Campbell explained that Respondent decided to terminate Kappelman because he was resistant to work assignments, was confrontational in a discussion with a service clerk, and had communication issues with field service supervisor Smith. (FOF, sec. II(G)(2).)

The General Counsel made an initial showing that Kappelman's union and protected concerted activities were a motivating factor in Respondent's decision to terminate him. There is no dispute that Kappelman was a member of and active with Local 150, a union that was a potential rival of Local 399 for representing the technicians and certain other employees working for Respondent. Respondent was aware of Kappelman's activities, at a minimum when Local 399 steward Friedrich complained in August 2023 about Kappelman having a Local 150 representative come to a job site earlier that month. The General Counsel also presented evidence of Respondent's animus towards Kappelman's activities with Local 150, as Respondent, primarily through field service supervisor Smith, unlawfully interrogated Kappelman on October 4, 2023 about bringing the Local 150 representative to the job site and why Kappelman continued to be a member of that union instead of submitting withdrawal paperwork and joining Local 399. (See FOF, sec. II(D); Discussion and Analysis, sec. (B)(3), supra.)

As its affirmative defense, Respondent maintains that it would have terminated Kappelman before the end of his probationary period even in the absence of Kappelman's union and protected concerted activities. I find merit to Respondent's defense. Throughout his time working for Respondent, Kappelman had friction with field supervisor Smith about job assignments that were farther away from Kappelman's home. Notably, those conflicts began by late July (if not earlier), before Respondent learned that Smith was still active with Local 150, and before the unlawful interrogation that occurred on October 4. (See FOF, sec. II(C)(2); see also id., sec. II(E)(1), (F)(1) (showing that Kappelman continued to have conflicts with Smith about assignments throughout his employment with Respondent).) As a result, the ongoing conflict between Smith and Kappelman about job assignments stands as a legitimate, nondiscriminatory reason for Respondent to discharge Kappelman.[17]

[17] The additional shortcomings that Respondent noted about Kappelman's conduct during his time with the company (Kappelman's confrontation with service clerk Lohrenz and the communication issues between Smith and Kappelman) provide additional support for Respondent's determination that it would not be worthwhile to retain Kappelman as a long-term employee. To be sure, those issues arguably arose after Respondent became aware of Kappelman's union and protected concerted activities, but the

In response, the General Counsel and Charging Party contend that Respondent's rationale for terminating Kappelman is a pretext for discrimination. Specifically, the General Counsel and Charging Party: fault Respondent for not formally notifying Kappelman during the probationary period, via discipline or an employee accountability notice, that his conflicts with Smith about job assignments were a problem; assert that the timing of Kappelman's termination is suspicious insofar as it occurred only a few days after the October 4 meeting that included unlawful interrogation; and fault Respondent for not, as part of its evaluation of whether to retain Kappelman, speaking with Kappelman to notify him of the concerns about his conduct and get his side of the story. (See, e.g., GC Posttrial Br. at 23–26; R. Posttrial Br. at 23–24.) I am not persuaded by those arguments.

Regarding the fact that Respondent did not discipline or verbally coach Kappelman about resisting assignments, the General Counsel did not show that Respondent had a consistent practice of issuing employee accountability notices to probationary employees about shortcomings in their job performance. Of the three comparators that the General Counsel provided, only two of those former employees were bargaining unit members, and only one of those two received an employee accountability notice that preceded termination (the other received a termination letter but no prior coachings or discipline). (See FOF, sec. II(G)(4).) Since the evidentiary record does not show that Respondent had an established practice of issuing employee accountability notices to probationary employees, I cannot fault Respondent for not issuing such a notice to Kappelman.[18]

As for the argument that the timing of Kappelman's termination is suspicious, I find that the timing of Kappelman's termination was driven by the fact (which no one disputes) that Kappelman's 120–day probationary period was coming to an end on about October 10. The fact that Campbell evaluated whether to retain Kappelman in the days after the October 4 meeting was therefore a coincidence. Indeed, the October 4 meeting was an impromptu meeting to clear the air after Kappelman reached out to Campbell about needing better communication from Smith about a job assignment. The meeting did not, in my view, prompt Campbell to assess whether to retain Kappelman; instead, the approaching end of Kappelman's 120–day probationary period prompted Campbell to make his assessment. (See FOF, sec. II(F), (G)(1).) The timing of Campbell's review was therefore not suspicious.

Finally, I do not find that Respondent's failure to tell Kappelman why Respondent was considering terminating him and give him an opportunity to explain his actions supports a finding of pretext. The Board has held that a finding of pretext can be supported by evidence that the employer failed to adequately investigate an employee's alleged misconduct, including

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evidentiary record shows that Respondent had a sound basis for believing that Kappelman engaged in the conduct.

[18] In making this finding, I emphasize that I am not condoning a practice of keeping employees in the dark about issues with their job performance. It is arguably in both employers' and employees' interest to have open communications in which managers advise employees of what they are doing well on the job and what they need to improve. The fact remains, however, that Respondent had a lawful and nondiscriminatory reason for terminating Kappelman even if Respondent did not formally notify Kappelman beforehand that his resistance to certain job assignments was problematic.

not speaking to the employee directly about the allegations against them and providing an opportunity for the employee to respond to the allegations. See *Lucky Cab Co.*, 360 NLRB 271, 274 (2014), enfd. 621 Fed. Appx. 9 (D.C. Cir. 2015); *Rood Trucking Co.*, 342 NLRB 895, 899–900 (2004); *Clinton Food 4 Less*, 288 NLRB 597, 598 (1988). It is also possible (though perhaps risky) for an employer to conduct a legitimate investigation without confronting the employee about the alleged wrongdoing. See, e.g., *Giddings & Lewis, Inc.*, 240 NLRB 441, 447–448 (1979) (finding that the employer did not interview strikers about alleged misconduct but formed an honest belief that they engaged in misconduct by interviewing eyewitnesses, reviewing video evidence of the incidents, and reviewing various oral and written reports). Here, Campbell evaluated whether to retain Kappelman after his probationary period by speaking to field service supervisor Smith and steward Friedrich, each of whom spent the most time working with Kappelman. Both expressed doubts about retaining Kappelman as a long term employee, noting (among other things) his tendency to push back on certain work assignments. Given that evidence, along with the fact that Kappelman did not dispute during trial that he questioned certain work assignments (though he had his reasons for doing so), I do not find that Respondent's investigation was inadequate or indicates that Respondent's rationale for terminating Kappelman was pretextual.[19] (See FOF, sec. II(C)(2), (E)(1), (G)(1).)

In sum, I find that while the General Counsel made an initial showing of discrimination, Respondent established a valid affirmative defense that it would have terminated Kappelman even in the absence of his union and protected concerted activities. Since the General Counsel and Charging Party did not successfully rebut that defense, I recommend that the complaint allegation concerning Kappelman's termination be dismissed.

CONCLUSIONS OF LAW

1. Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

2. Charging Party, International Union of Operating Engineers, Local 150, affiliated with International Union of Operating Engineers, AFL–CIO, is a labor organization within the meaning of Section 2(5) of the Act.

3. By, on about October 4, 2023, interrogating employees about their union and protected concerted activities and the union and protected concerted activities of other employees, Respondent violated Section 8(a)(1) of the Act.

4. The unfair labor practices stated in Conclusion of Law 3, above affect commerce within the meaning of Section 2(6) and (7) of the Act.

[19] Relatedly, I do not find pretext based on the fact that Respondent did not issue a termination letter to Kappelman to explain the reason for his discharge. The General Counsel did not establish that Respondent had a consistent practice of issuing termination letters, as only one of the three comparators that the General Counsel presented received such a letter. (FOF, sec. II(G)(4).)

REMEDY

Having found that Respondent engaged in certain unfair labor practices, I shall order it to cease and desist therefrom and to take certain affirmative action designed to effectuate the policies of the Act. Specifically, I shall require the Respondent to post an appropriate informational notice at its East Peoria facility as described in the order below.

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended[20]

ORDER

Respondent, Altorfer, Inc., East Peoria, Illinois, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Interrogating employees about their union and protected concerted activities and/or the union and protected concerted activities of other employees.

(b) In any like or related manner interfering with, 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) Within 14 days after service by the Region, post at its East Peoria, Illinois, facility copies of the attached notice marked "Appendix."[21] Copies of the notice, on forms provided by the Regional Director for Region 25, after being signed by Respondent's authorized

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[20]If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes due under the terms of this Order.

[21] If the facility involved in these proceedings is open and staffed by a substantial complement of employees, the notice must be posted within 14 days after service by the Region. If the facility involved in these proceedings is closed or not staffed by a substantial complement of employees due to the Coronavirus Disease 2019 (COVID–19) pandemic, the notice must be posted within 14 days after the facility reopens and a substantial complement of employees has returned to work. If, while closed or not staffed by a substantial complement of employees due to the pandemic, Respondent is communicating with its employees by electronic means, the notice must also be posted by such electronic means within 14 days after service by the Region. If the notice to be physically posted was posted electronically more than 60 days before physical posting of the notice, the notice shall state at the bottom that "This notice is the same notice previously [sent or posted] electronically on [date]."

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."

representative, shall be posted by 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 Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by Respondent to ensure that the notices are not altered, defaced, or covered by any other material. If Respondent has gone out of business or closed the facility involved in these proceedings, Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by Respondent at the facility at any time since October 4, 2023.

(b) Within 21 days after service by the Region, file with the Regional Director for Region 25 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that Respondent has taken to comply.

IT IS FURTHER ORDERED that the complaint is dismissed insofar as it alleges violations of the Act not specifically found.

Dated, Washington, D.C., August 5, 2025

Geoffrey Carter
Administrative Law Judge

APPENDIX

NOTICE TO EMPLOYEES
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 a representative to bargain with us on your behalf;
Act together with other employees for your benefit and protection;
Choose not to engage in any of these protected activities.

WE WILL NOT interrogate you about your union and protected concerted activities and/or the union and protected concerted activities of other employees.

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

Altorfer Inc.
(Employer)

Dated: _____ By _____
(Representative)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlrb.gov

Minton-Capehart Federal Building, 575 N. Pennsylvania Avenue, Room 238, Indianapolis, IN 46204-1577
(317) 226-7381, Hours: 8:30 a.m. to 5 p.m.

The Administrative Law Judge's decision can be found at https://www.nlrb.gov/case/ 25-CA-327736 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

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER.