

MAY 20 2020

ORDER OF COMMISSIONSECRETARY OF STATE
COMMISSIONS DIVISION

In the matter of Objection No. 009 filed by Glaziers, Architectural Metal and Glass Workers Union Local 513, on April 3, 2019, to Annual Wage Order No. 27 issued by the Department of Labor and Industrial Relations, Division of Labor Standards, filed with the Missouri Secretary of State on March 10, 2020, pertaining to the wage rate for the occupational title of Glazier in the Missouri County Franklin – Section 036.

On March 10, 2020, the Division of Labor Standards (Division) filed with the Secretary of State a certified copy of Annual Wage Order No. 27 (AWO) containing its initial determinations of the prevailing hourly rates of wages for each occupational title and, where applicable, the public works contracting minimum wage, within every locality. As relevant to this matter and because fewer than 1,000 hours were reported for Franklin County, the Division set the rate for Glazier at the public works contracting minimum wage (PWCMW), pursuant to § 290.257.2, RSMo, at \$24.61.

On April 3, 2020, the Labor and Industrial Relations Commission (Commission) received an objection filed on behalf of Glaziers, Architectural Metal and Glass Workers Union Local 513 (Objector).¹

In its objection, Objector identifies hours designated as glazier construction work in Franklin County, as 1,252 hours at the rate of \$38.87 in wages and \$23.04 in fringe benefits from “January 1, 2018, through August 31, 2018.”

Objector does not attached copies of contractor's wage surveys showing these hours. Objector also does not provide any explanation as to why these hours were not reported by January 31, 2020.

Commission Rule 8 CSR 20-5.010(1) provides, in relevant part:

If the objection is premised, in whole or in part, upon hours that were not previously reported to the Division of Labor Standards on or before January 31 of the year in which the objection is filed, the commission will consider the objection only if the objector is able to allege and prove a good cause why the hours were not previously reported to the Division of Labor Standards. If the objector fails to identify and allege such good cause in the written objection, the objection may be dismissed by the commission

¹ On April 1, 2020, the Division filed a Motion to Amend the AWO. This Motion affects the rates at issue in this objection. If the Amendment is approved, the new rate after the amendment will be \$61.92, or one cent higher than the recommendation in the objection.

without a hearing. For purposes of this rule, "good cause" shall mean those circumstances in which the objector acted in good faith and reasonably under all the circumstances.

8 CSR 20-5.010(1).

Here, the objection does not comply with the requirements of 8 CSR 20-5.010(1). The objection does not include wage reports to support alleged reportable hours. Furthermore, the Objector did not explain why those hours were not reported to the Division prior to January 31, 2020. Pursuant to 8 CSR 20-5.010(1), the Commission is to "consider objections *only* if the objector is able to allege and prove a good cause why the hours were not previously reported to the Division[.]" (emphasis added).

As the Objector failed to support the alleged hours or allege good cause as to why the hours were not reported to the Division by January 31, 2020, we conclude the appropriate action is to dismiss this objection.

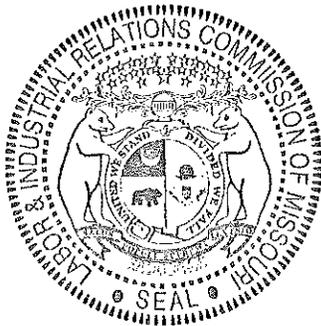
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We conclude that Objection No. 009 fails to satisfy Commission Rule 8 CSR 20-5.010(1).

We hereby dismiss Objection No. 009.

Given at Jefferson City, State of Missouri, this 10th day of April 2020.

LABOR AND INDUSTRIAL RELATIONS COMMISSION



R. Cornejo

Robert W. Cornejo, Chairman

Reid Forrester

Reid K. Forrester, Member

DISSENTING OPINION FILED

Shalonn K. Curls, Member

Attest:

Danella M. Hoffman
Secretary

DISSENTING OPINION

After my own review of 8 CSR 20-5.010(1), I disagree with the Commission majority's choice to dismiss the objection for the alleged failure to "prove a good cause why the hours were not previously reported to the Division of Labor Standards."

The provisions of 8 CSR 20-5.010(1) are relatively new and require objecting parties to take steps that were not required previously. The Commission has historically considered hours submitted after January 31 of any given year when raised in the context of an objection. Similarly, the Commission has also historically allowed objections without accompanying contractor's wage surveys.

Given the novelty of these requirements, and as the substance of the objection is more important than procedural protocols, I would be lenient in allowing the objection and proceed to a hearing on the objection.

Because the Commission majority has decided otherwise, I respectfully dissent.

S. Kiki Curls

Shalonn K. Curls, Member