



UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY
CHARGE AGAINST AN AGENCY

FOR FLRA USE ONLY

Case No.

Date Filed

Complete instructions are on the back of this form.

1. Charged Activity or Agency

Name: Federal Aviation Administration
 Address: 800 Independence Avenue, SW
 Washington, DC 20591
 Tel.#: _____ Ext. _____
 Fax#: _____

2. Charging Party (Labor Organization or Individual)

Name: Jeffrey N. Lewis
 Address: 28242 S. Salo Road
 Mulino, OR 97042
 Tel.#: (971) 295-7669 Ext. _____
 Fax#: _____

3. Charged Activity or Agency Contact Information

Name: Aletha Hicks-Moffatt
 Title: Manager, FAA AWP Labor Relations office
 Address: PO Box 92007
 Los Angeles, CA 90009
 Tel.#: (310) 725-7820 Ext. _____
 Fax#: _____

4. Charging Party Contact Information

Name: Jeffrey N. Lewis
 Title: Air Traffic Controller (former)
 Address: 28242 S. Salo Road
 Mulino, OR 97042
 Tel.#: (971) 295-7669 Ext. _____
 Fax#: _____

5. Which subsection(s) of 5 U.S.C. 7116(a) do you believe have been violated? [See reverse] (1) and 3, 4, 5

6. Tell exactly WHAT the activity (or agency) did. Start with the DATE and LOCATION, state WHO was involved, including titles.

Please see attached, charging that Agency ("FAA") colluded with the controllers union ("NATCA"), to discriminate against me and obstruct my Due Process and grievance rights.

7. Have you or anyone else raised this matter in any other procedure? No Yes If yes, where? [see reverse] _____

8. I DECLARE THAT I HAVE READ THIS CHARGE AND THAT THE STATEMENTS IN IT ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT MAKING WILLFULLY FALSE STATEMENTS CAN BE PUNISHED BY FINE AND IMPRISONMENT, 18 U.S.C. 1001. THIS CHARGE WAS SERVED ON THE PERSON IDENTIFIED IN BOX #3 BY [check "x" box] Fax 1st Class Mail In Person
 Commercial Delivery Certified Mail

Jeffrey N. Lewis

Type or Print Your Name

Your Signature

08/10/2012

Date

Attachment to ULP: the Charge (box 6)

Filed 8/10/2012, by Jeffrey N. Lewis

Agency (“FAA”) colluded with the controllers union (“NATCA”), to discriminate against me and obstruct my Due Process and grievance rights. This collusion culminated in a decision by both FAA and NATCA to cancel a grievance arbitration scheduled for 2/16/12 and 2/17/12, and enter into a settlement that I had unambiguously and repeatedly opposed in writing. Furthermore, any reasonable person would find the terms of this bad faith settlement to be clearly and substantially prejudicial against me.

The earliest evidence of discriminatory collusion between FAA and NATCA was in May 2007. On 2/16/07, FAA official Jason Ralph had locked me out from my workplace at the control tower in Concord, CA. A Constructive Suspension was initiated in April 2007, and I then filed my first grievance. NATCA officials David Caldwell and Mike Hull threatened to withdraw my grievance. Mr. Caldwell then notified FAA official Jason Ralph, encouraging him to deny my grievance. I learned of this months later, then filed my first ULP’s, against both FAA (Case No. SF-CA-08-0087) and NATCA (Case No. SF-CO-08-0046).

In April 2008, FAA LR Specialist Glen Rotella contacted me and offered to settle my FAA ULP. I accepted his “make whole” offer, which included my withdrawing the ULP against FAA in exchange for full payment and a timeliness waiver. This enabled me to file a grievance to be made whole for FAA damages imposed during Spring/Summer 2007. Years later, I obtained agency records via FOIA which show that FAA retaliated against this grievance action by initiating my removal. I had mailed Mr. Rotella the new grievance and signed settlement on 5/1/08. He had forwarded PDF copies to other FAA officials on 5/7/08. The first draft proposing my removal was drafted and sent by Mr. Rotella’s coworker, Ros Marable, on 5/15/08, yet was based solely on my alleged misconducts from Spring 2007, fourteen months earlier. I was eventually removed on 11/6/08, just six months prior to retirement eligibility (at age-50, in May 2009).

FAA flatly denied this new grievance on 6/19/08, and again on 9/25/08. I pressured NATCA to request arbitration. There was a very long delay. Then, three years later, on 11/23/11, FAA and NATCA retained the services of Arbitrator Eric Lindauer. FAA and NATCA scheduled a hearing at Daly City, CA, to be held on 2/16/12 and 2/17/12.

On 2/1/12, I received an email from James Barrett, the lead NATCA official for my scheduled arbitration. Just two weeks before the scheduled hearing, he asked for a list of potential witnesses and advised we would need to meet all day on 2/15/12 to prep for the arbitration hearing. On 2/5/12, I received FAA’s response to a FOIA Appeal with new evidence substantially relevant to the hearing; I immediately shared copies with Mr. Barrett and the other NATCA arbitration representative, Mark Wilson. I sent a series of emails which all articulated the critical need to not settle, to hold a hearing so as to create a record, which had thus far not happened. NATCA officials Barrett and Wilson did not reply to key emails. Then, on 2/9/12, FAA LR Specialist Bobby Rodriguez sent a settlement proposal to NATCA. Early on 2/10/12, I emailed NATCA officials and asked that Mr. Barrett and Mr. Wilson confirm meeting times and locations, so that I could finalize my travel plans. They replied to standby. Six hours later, Mr. Wilson sent me a rough draft of FAA’s settlement proposal.

Attachment to ULP: the Charge (box 6)

Filed 8/10/2012, by Jeffrey N. Lewis

Although I clearly opposed this settlement in many written communications, it was nonetheless imposed by FAA and NATCA. I was not a signatory. The money portion of my grievance was sustained, though I was paid at only 40-cents on the dollar. More importantly though, the hearing was not held (no hearings have ever been held on my case). Both FAA and NATCA benefited from my case not being heard. A hearing record would have revealed the years of concealment and other bad faith actions, by both FAA and NATCA, to hide many slanders, breaches of medical records confidentiality, and other violations. All of these violations are revealed in the extant agency records, which both FAA and NATCA did not want to discuss at the cancelled hearing.

This is discriminatory, as evidenced by many other similar arbitrations that have been routinely heard. Records show these other arbitration hearings have involved employees with actual misconduct histories (whereas, I had no misconduct history in 22-years). Any reasonable person would recognize these arbitrations that WERE heard were generally unwinnable by the union. By contrast, my case, fully supported by an extensive collection of agency records, was arbitrarily closed down.

This is a bad faith collusion between FAA and NATCA, in which agency was willfully manipulating the union to diminish the rights of a grievant union member. This was discriminatory and retaliatory. In the larger picture, agency had forcibly 'retired' me; agency then obstructed my Due Process rights and concealed key exculpatory evidence. Here, the union is aiding in that age discrimination by colluding with agency to deny my use of a formal arbitration hearing. This hearing remains necessary, so as to fill in the details of the case record, and to achieve a full and fair outcome.