

WHISARD Compliance Action Report

U.S. Department of Labor

Wage and Hour Division

Case ID: 1733262 Originating District: Seattle District Office
Local Filing Number: 2014-323-07031 Investigating District: Seattle District Office
WHMIS Case Number: Lead Investigator: (b) (6), (b) (7)(C)
Registration Date: 06/25/2014
Assignment Date: 06/25/2014

Employer Information

Trade Name: Boeing Legal Name: The Boeing Company
Address: Casino Rd EIN: 91-0425694
Everett, WA98204 County: Snohomish
NAICS Code: 33641
No. Of Employees: (b) (4)

Investigation Information

Period Investigated From: 05/01/2014 BNPI:
To: 08/30/2014 Reinvestigation:
Investigation Type: (b) (7)(E) Recurring Violation:
Investigation Tool: Limited Investigation Future Compliance Agreed:
Compliance Status: Agree to Comply Involved in AG:

Recommended Action:

BWFS: RO/NO Review:
CMP: Follow Up Investigation:
Litigation: Other Action:
Civil Action: Denial of Future Certificate:
Criminal Action: BW Payment Deadline:
Submit For Opinion: Trailer forms attached:

CL

Violation / Compliance Status	Violations	EEs ATP	BWs Computed	BWs Agreed	LDs Computed	LDs Agreed	CMPs*
CL Totals:	0	0	\$0.00	\$0.00	\$0.00	\$0.00	

FLSNM

Violation / Compliance Status	Violations	EEs ATP	BWs Computed	BWs Agreed	LDs Computed	LDs Agreed	CMPs*
FLSNM Totals:	0	1	\$0.00	\$0.00	\$0.00	\$0.00	

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** CMPs computed do not necessarily indicate CMPs assessed.*

Unduplicated Employees Found:	0	Unduplicated Employees Agreed:	0
Total Amount BWs Computed:	\$0.00	Total Amount BWs Agreed:	\$0.00
Total Amount LDs Computed:	\$0.00	Total Amount LDs Agreed:	\$0.00

Conclusions & Recommendations:

Limited to FLSANM. EE (b) (7)(E) ER did not provide adequate space for the number of nursing mothers at (b) (6), (c) location. (b) (7)(E). FLSA cov: 3s1a. ER did not have enough private spaces available for nursing mothers at their Everett location. ER agreed to comply and immediately created a plan to find more space and get into compliance. FC with Al Mellor on 8/25/14. Pubs provided FS 44, 73.

WHI Signature: _____ Date: 09/03/2014

Reviewed By: _____ Date: _____

Boeing Co.
3003 West Casino Rd
Everett, WA 98204
Contact: Al Mellor
425-965-3671
EIN: 91-0425694
Case ID: 1733262

Fair Labor Standards Act Nursing Mothers

This investigation was initiated because of (b) (7)(E) (b) (6), (b) (7)(C) (b) (7)(E) there was not enough space for the number of nursing mothers that required a place to express milk during their work day. (b) (6), (b) (7)(C) could not access a private room in order to express milk on a regular basis. (b) (7)(E) and the company agreed to create more space.

The investigation was limited to the nursing mothers provision of Section 7 under the FLSA.

Prior Investigative History

There have been several prior investigation of this establishment.

Case ID: 1716088. FMLA (b) (7)(E) Case dropped due to ER corrected before investigation started. (See Ex E-1)

Case ID: 1705412. FMLA (b) (7)(E) Case dropped due to issue being resolved before investigation started. (See Ex E-2)

Case ID: 1705007. FMLA (b) (7)(E) EE (b) (7)(E) wrongful termination due to excessive absences that were covered by FMLA. (b) (7)(E) (See Ex E-3)

Case ID: 1602904. FMLA (b) (7)(E) EE (b) (7)(E) failure to reinstate to equivalent position. (b) (7)(E) (See Ex E-4)

Case ID: 1581354. EE (b) (7)(E) wrongful termination and not allowed to return to work. (b) (7)(E) (See Ex E-5)

MODO

The business is located in Everett, WA, but the headquarters is in Chicago, IL. Chicago DO is the MODO. (See D-1)

Coverage

The Boeing Company manufactures airplanes among other ventures. Its business operates all over the country as well as overseas, shipping its goods across state lines on a regular basis. The company grosses well over \$500,000 per year and has over one hundred thousand employees engaged in interstate commerce. (See Ex C- 2a) All employees are covered under §3(s)(1)(a) of the FLSA on an enterprise basis. Since there are more than 50 employees, the coverage includes §207(r); the nursing mothers provision of the FLSA.

The current investigation is limited to §207(r) of the FLSA and (b) (6), (b) (7)(C) in question is a non-exempt employee covered by §207(r).

The present investigation covers the period May 1, 2014 through August 30, 2014.

Exemptions

None claimed and none granted.

Status of Compliance

207(r)(1)(A) – Failure to provide adequate break time (frequency, duration, or complete denial):

No violations found. (b) (6), (b) (7)(C) was given adequate break time to express (b) (6), (b) (7)(C) breast milk. (b) (6), (b) (7)(C) needs to express (b) (6), (b) (7)(C) breast milk three times per shift and (b) (6), (b) (7)(C) was provided all the time (b) (6), (b) (7)(C) needed. (See Ex B-1a)

207(r)(1)(B)- Failure to provide functional space (bathroom not permissible, space not free from intrusion, not shielded from view): Violations found. (b) (6), (b) (7)(C) does not have a private space

where (b) (6), (b) (7)(C) can express (b) (6), (b) (7)(C) milk free from intrusion. The company has provided rooms strictly for the use of nursing mothers, but there aren't enough rooms available for the number of nursing mothers at the location (b) (6), (b) (7)(C) works.

(b) (6), (b) (7)(C) returned to work from maternity leave (b) (6), (b) (7)(C) and learned about Boeing's nursing mother's program on (b) (6), (b) (7)(C) own. The program manages the rooms nursing mothers can use to express milk. Mothers returning from maternity leave go to a website on the company's intranet and can sign up for a time to use the room(s) available at their location. The rooms are equipped with locks, chairs, and a refrigerator to store the milk. The rooms are locked and each woman that signs up is given the door code. The door codes are unique to each room and not to each person. (b) (6), (b) (7)(C) has signed up for time slots in (b) (6), (b) (7)(C) building only to have other women enter while (b) (6), (b) (7)(C) in there to also use the room. (b) (6), (b) (7)(C) has been told that (b) (6), (b) (7)(C) could not expect privacy due to the demand for the room. (See Ex B- 1a) (b) (6), (b) (7)(C) has used the nursing room in the building adjacent to (b) (6), (b) (7)(C) because it has partitions so multiple women can use it at the same time and offers more privacy, but it also has limited availability due to high demand. There are about 20 women between the two buildings who use both rooms and some of those women take shuttles to the main factory about 1 mile away to use a room there that has more availability. (b) (6), (b) (7)(C) is unable to sign up for the nursing rooms for the times (b) (6), (b) (7)(C) needs to use them and also utilizes conference rooms when (b) (6), (b) (7)(C) can. (b) (6), (b) (7)(C) has been told that (b) (6), (b) (7)(C) is not supposed to use those rooms for nursing. (b) (6), (b) (7)(C) is also concerned that employees from 3 other buildings set for demolition are moving into (b) (6), (b) (7)(C) building and the adjacent building, so there are even more women that will need to use the remaining two nursing rooms. (See Ex B-1b)

WHI (b) (6), (b) (7)(C) spoke with the woman in charge of the nursing rooms at the Everett location, Ms. Alexander. (See Ex C-1a) She stated she was unaware that there was such an immediate need because there were some slots available between 7 & 9 am and after 4 pm. (See Ex C-1b) She also stated that she was not aware that women were getting the door codes from other women and that it was a security issue. (See Ex C-1a) WHI (b) (6), (b) (7)(C) explained that there was already not enough space available for the women who needed it when they needed it and that the company should have known that more women would be needing the rooms because there was a known amount of women already signed up for the rooms in the buildings being demolished and they were transferring to the remaining two buildings. Ms. Alexander said she was not sure how many nursing mothers would be moving to the remaining two buildings because some of the employees were moving to other locations. She also thought she was in compliance

with the regulation as long as the room was available during the day regardless of when the room was available.

WHI (b) (6), (b) (7)(C) explained that the nursing mothers needed a private room to express their milk when they needed to express, which is every 2 – 3 hours. Since most of the women are working similar schedules, the rooms are going to be needed during approximately the same time periods each day. Ms. Alexander stated that she requested more space already but it could take some time because it's up to the facilities department to find the space, prepare it, and get the whole thing approved through security. (See Ex C-1a) WHI (b) (6), (b) (7)(C) was referred to EEOC representative Al Mellor who represented the company throughout the investigation.

207(r)(2) – Compensation for break time: No violations found. The employer paid (b) (6), (b) (7)(C) for all time expressing milk. (See Ex B-1a)

207(r)(3) – Undue Hardship: No violations. The employer has hundreds of employees at or near the location where the employee works and made no objection to its obligation to comply with the law.

Disposition

WHI (b) (6), (b) (7)(C) conducted a final conference via telephone with EEOC officer Al Mellor on 8/25/2014. WHI (b) (6), (b) (7)(C) had been discussing the lack of space issue with Mr. Mellor and he was working the facilities department in order to speed things along. The company did not agree with Ms. Alexander and recognized that mothers returning to work would need space to express milk when they needed it and not whenever a private room was available. He provided a plan the company was implementing within 30 days. First, the company was immediately adding partitions to existing mother's rooms in order to provide privacy and more space. Second, the company was adding more rooms in each building that would be completed within 30 days.

(b) (6), (b) (7)(C) was advised of the plan.

Publications Provided

Boeing Case ID: 1733262

Fact sheets 44, 73

Recommendation

Recommend close administratively (b) (7)(E) .

Further Correspondence

Mr. Al Mellor
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