STATE OF WASHINGTON
DEPARTMENT OF LABOR AND INDUSTRIES
P.O. Box 44000 • Olympia, Washington 98504-4000

November 18, 2025

Via E-mail and U.S. Mail

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RE: Abi Eshagi
OAH Docket No. 01-2024-LI-02033
Director No. 2025-020-WPA _____

Dear Parties:

Please find the enclosed Director's Order, which is served on the date of mailing. A copy of the Initial Order is enclosed for your convenience.

Sincerely,

Joel Sacks
Director

Enclosures

cc: Judge Dan Gerard
Haley Bobbitt, Tacoma OAH
Anastasia Sandstrom, AAG

DIRECTOR OF THE DEPARTMENT OF LABOR & INDUSTRIES
STATE OF WASHINGTON

In re:	No. 2025-020-WPA _____
ABI ESHAGI,	DIRECTOR'S ORDER
Appellant,	RCW 49.48.084(4); RCW 34.05
Determination of Compliance No. 359-23	
OAH Docket No. 01-2024-LI-02033	

Joel Sacks, Director of the Washington State Department of Labor & Industries, having considered the appeal filed by the Abi Eshagi (Appellant), briefing submitted to the Director's Office, and having reviewed the record, issues this Director's Order.

The Director makes the following Findings of Fact, Conclusions of Law, and Final Decision and Order.

I. FINDINGS OF FACT

1. The Office of Administrative Hearings issued and served the Initial Order on May 22, 2025.

2. The Director received a timely filed petition for administrative review from the Appellant.

3. All the Findings of Fact of the Initial Order are adopted and incorporated by reference.

4. L&I received a wage complaint from the Appellant on September 14, 2022. On

November 17, 2022, L&I notified the parties of a 75-day extension needed for investigation, which would be January 31, 2023. On September 14, 2023, L&I issued a Determination of Compliance.

II. CONCLUSIONS OF LAW

1. Based on the Appellant's timely filed petition for administrative review, there is authority to review this matter under RCW 49.48.084 and RCW 34.05.

2. All Conclusions of Law of the Initial Order are adopted incorporated by reference.

3. The Appellant argues that he should receive a Citation and Notice of Assessment in his favor because his wage complaint was not acted upon within 60 days of L&I's receipt of the wage complaint and the extension thereof. RCW 49.48.083 provides "(1) If an employee files a wage complaint with the department, the department shall investigate the wage complaint. Unless otherwise resolved, the department shall issue either a citation and notice of assessment or a determination of compliance no later than 60 days after the date on which the department received the wage complaint. The department may extend the time period by providing advance written notice to the employee and the employer setting forth good cause for an extension of the time period and specifying the duration of the extension." This provision is directory not mandatory. *In re Seattle Outdoor Spaces, LLC.*, Director No. 2025-015-WPA (Wash. Dir. Lab. & Indus. 2025).[1] Failure to act within the 60-day period (or extension) does not result in either a Determination of Compliance or Citation and Notice of Assessment be issued in favor of any party on the basis that the timeline wasn't complied with. *Id.* RCW 49.48.083 does not provide for such a remedy. The remedy for an untimely investigation is a writ of mandamus. *Id.*

4. The Director does not have jurisdiction to determine wages owed under a collective bargaining agreement for the reasons set forth in this Director's Order.

[1] https://lni.wa.gov/workers-rights/_docs/2025-015-WPA_SeattleOutdoorSpacesLLC.pdf

III. DECISION AND ORDER

Consistent with the above Findings of Fact and Conclusion of Law, the appeal relying on the collective bargaining agreement is DISMISSED as preempted by § 301 of the federal Labor Management Relations Act. There being no evidence that specific Washington's wage payment laws were violated, the Determination of Compliance is AFFIRMED. And the Initial Order of May 22, 2025, is adopted incorporated by reference herein.

JOEL SACKS
Director

SERVICE

This Order was served on you the day it was deposited in the United States mail. RCW 34.05.010(19).

APPEAL RIGHTS

Reconsideration. Any party may file a petition for reconsideration. RCW 34.05.470. Any petition for reconsideration must be filed within 10 days of service of this Order and must state the specific grounds on which relief is requested. No matter will be reconsidered unless it clearly appears from the petition for reconsideration that (a) there is material clerical error in the order **or** (b) there is specific material error of fact or law. A petition for reconsideration, together with any argument in support thereof, should be filed by emailing it to directorappeal@lni.wa.gov or by mailing or delivering it directly to Joel Sacks, Director of the Department of Labor and Industries, P. O. Box 44001 Olympia, Washington 98504-4001, with a copy to all other parties of record and their representatives. Filing means actual receipt of the document at the Director's Office. RCW 34.05.010(6).

NOTE: A petition for reconsideration is not required before seeking judicial review. If a petition for reconsideration is filed, however, the 30-day period will begin to run upon the resolution of that petition. A timely filed petition for reconsideration is deemed to be denied if, within twenty (20) days from the date the petition is filed, the Director does not (a) dispose of the petition **or** (b) serve the parties with a written notice specifying the date by which it will act on the petition. RCW 34.05.470(3).

Judicial Review. Any petition for judicial review must be filed with the appropriate court and served within 30 days after service of this Order. RCW 34.05.542. RCW 49.48.084(5) provides: "Orders that are not appealed within the time period specified in this section and Chapter 34.05 RCW are final and binding, and not subject to further appeal." Proceedings for judicial review may be instituted by filing a petition in superior court according to the procedures specified in chapter 34.05 RCW, Part V, Judicial Review and Civil Enforcement.

DECLARATION OF MAILING

I, Lisa Deck, hereby declare under penalty of perjury under the laws of the State of Washington, that the **DIRECTOR'S ORDER** was mailed and e-mailed on the date listed below, to the following via regular, postage prepaid, U.S. Mail:

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DATED this 18 day of November 2025 at Tumwater, Washington.

Lisa Deck
LISA DECK

WASHINGTON STATE
OFFICE OF ADMINISTRATIVE HEARINGS

In the matter of: Abi Eshagi, Appellant/Wage Claimant.	Docket No. 01-2024-LI-02033 **INITIAL ORDER DETERMINING PARTIAL LACK OF JURISDICTION, AFFIRMING DOC, AND DISMISSING APPEAL** Agency: Labor and Industries Program: Wage Payments Agency No. DOC - 359-23

1. **ISSUES:**

1.1. Does the Office of Administrative Hearings ("OAH") have jurisdiction to decide this case? And if so, then to what extent?

1.2. And, if OAH has at least partial jurisdiction, then did the Department of Labor and Industries ("Department") properly determine that the Employer, Kalitta Air, LLC, did not violate the Washington State wage payment laws concerning Appellant, Abi Eshagi ("Appellant"), for the period of May 3, 2022, through May 8, 2022, as set out in the Department's Determination of Compliance No. 359-23, dated September 14, 2023.

1.2.1. If the Determination of Compliance **was not** properly determined, then what wages are owed to the Appellant?

1.2.2. Conversely, If the Determination of Compliance **was** properly determined, then should it be affirmed?

1.3. If only partial jurisdiction, does OAH have the authority to decide if Mr. Eshagi is owed the agreed wages set forth under the Collective Bargaining Agreement ("CBA")?

1.4. Based on the above answers should Mr. Eshagi's appeal be dismissed?

2. **ORDER SUMMARY:**

2.1. **Yes, OAH has Partial Jurisdiction:** The Office of Administrative Hearings has partial jurisdiction in this matter and may decide if the Employer violated Washington's wage payment laws, as those are written. Thus, this Tribunal may rule on whether the Department's Determination of Compliance should be Affirmed or Reversed.

2.2. To that extent, it is determined here that the Department properly found the Employer did not violate Washington's wage payment laws.

2.2.1. Meaning Mr. Eshagi is not owed any wages under that body of law, and the Determination of Compliance shall be AFFIRMED.

2.3. However, OAH and this Tribunal do not have jurisdiction to decide whether the Employer failed to pay Mr. Eshagi the agreed wages set out in the Collective Bargaining Agreement ("CBA").

2.3.1. Upon hearing the testimony of the witnesses, including the position and arguments of the parties, and consulting the evidentiary documents admitted into the record, it is determined that this Tribunal does not have jurisdiction to decide whether Mr. Eshagi was paid the agreed wages as set out in the CBA.

2.3.2. As detailed more fully below, federal labor laws will pre-empt state labor laws in certain instances, including when the fact finder (this Administrative Law Judge) must engage in the interpretation of the Collective Bargaining Agreement at issue to resolve the case, which is the situation here.

2.4. Accordingly, the Appellant's appeal must be DISMISSED.

3. **HEARING:**

3.1. **Hearing Dates**: February 18, 2025, and March 24, 2025

3.2. **Administrative Law Judge**: Di Rudman

3.3. **Appellant**: Abi Eshagi ("Appellant")

3.3.1. Representative: Mr. Eshagi represented himself.

3.3.2. Witnesses:

3.3.2.1. Abi Eshagi.

3.3.2.2. Shafin Nagji, Industrial Relations Agent, Department of Labor and Industries.

3.3.2.3. Melissa Grondahl, Compliance Specialist Supervisor, Department of Labor and Industries.

3.4. **Agency**: Labor and Industries ("Department").

3.4.1. Representative: Cindy Gaddis, Assistant Attorney General.

3.4.2. Witnesses:

3.4.2.1. Shafin Nagji, Industrial Relations Agent, Department of Labor and Industries.

3.4.2.2. Chomer Smith, CKSMEC Executive Administrator.

3.4.2.3. Melissa Grondahl, Compliance Specialist Supervisor, Department of Labor and Industries.

3.5. **Employer**: Kalitta Air, LLC ("Employer")

3.5.1. Representative: Cindy Gaddis, Assistant Attorney General.

3.6. **Exhibits**: The following Exhibits were admitted and considered for purposes of this Order.

3.6.1. The Department's Exhibits 1 through 19 were admitted.

3.6.2. The Appellant's Exhibits A, C, and H through L were admitted. Proposed Exhibits B, D, E, F, and G were duplicates of the Department's Exhibits, 6, 14, 17, 4, and 1, respectively and were not separately admitted.

3.7. **Additional Documents Considered**: For the purposes of this Order, I also considered the following documents:

3.7.1. Appellant's Brief, dated September 23, 2024 (re prehearing motions, including the question of whether the Department had jurisdiction to resolve the case);

3.7.2. Department of Labor and Industries' Response in Opposition to Appellant's Motion, dated October 3, 2024;

3.7.3. Appellant's Response to Department of Labor and Industries Response in Opposition, dated October 11, 2024; and

3.7.4. Order on Appellant's Motions re: (1) . . . (2) For a Determination of the Department's Jurisdiction to Determine Wage Claims when CBA is Involved, dated December 12, 2024.

3.8. **Court Reporter**:

3.8.1. Connie Church, Court Reporter, was present to provide a report of the proceedings as requested by the Department.

4. RELEVANT PROCEDURAL HISTORY:

4.1. On August 21, 2024, in a pre-hearing motion, Mr. Eshagi orally questioned whether the Department had jurisdiction to "*determine if wages are owed under a [C]ollective Bargaining Agreement*".

4.2. The matter was continued to allow the parties time to submit briefing on this and another issue raised.

4.3. The briefing was completed by October 11, 2024.

4.4. By Order dated December 12, 2024, this Tribunal held that the Department did have jurisdiction to determine the case.

4.5. However, in that Order, it was also explained that the grant of jurisdiction was conditioned upon there being no need for the terms of the Collective Bargaining Agreement themselves to be interpreted.

4.6. As set forth below, it has become apparent, after hearing testimony from the parties and reviewing the documentary evidence that was admitted, that Mr. Eshagi's Wage Complaint requires the interpretation of the terms of the CBA.

4.7. Accordingly, the following lays out the facts and conclusions that led this Tribunal to now determine that subject matter jurisdiction was partially lost.

5. FACTS FOR PURPOSES OF JURISDICTION:

Kalitta Air and Mr. Eshagi –

5.1. The Appellant, Abi Eshagi was an airline pilot for the Employer from November 2020 until May 2022. *Eshagi Testimony.*

5.2. The Employer, Kalitta Air, LLC, is a private airline company that provides freight air transportation and is based out of Michigan. *Exhibit 5, p. 3.*

5.3. For the month of May 2022 (the Month at issue in this case) Mr. Eshagi's regularly scheduled days off began on first day of the month and lasted through the 11th. *Eshagi Testimony.*

5.4. Thus, his scheduled days to work (or "Duty Days") in May 2022 were from the 12th through the 28th. *Id.*

Collective Bargaining Agreement –

5.5. Kalitta Air's pilots are represented by the Air Line Pilots Association, International ("ALPA" or the "Association"). *See Exhibit I – Agreement between Kalitta Air, LLC and The Airline Pilots in the Service of Kalitta Air, LLC).*

5.6. Kalitta Air recognizes ALPA as being its Fight Deck Crew Members' authorized representative. *Id, at p.15, Section 1 A.*

5.7. The Agreement between Kalitta Air and its pilots is also referred to as a "Collective Bargaining Agreement" ("Agreement" or "CBA"). *See Exhibit I for full Agreement.*

Applicable Definitions Found Under the CBA –

5.8. Section 2 of the Collective Bargaining Agreement contains a list of Definitions that include the following (directly quoted from the CBA, except for the bold highlights):

5.8.1. **"Crewmember"** means a Pilot or Fight Engineer covered by this Agreement.

5.8.1.1. Note, there is no dispute that Mr. Eshagi is classified as a "Crewmember".

5.8.2. **"Duty" (or "Duty Day")** means a period of time (or day) that a Crewmember is subject to the Company's direction.

5.8.3. **"Minimum Bid Period Guarantee (MBPG)"** means the minimum credit hours a Crewmember will receive in a Bid Period.

5.8.4. **"Month"** means the period of time commencing with and including the first Day of a calendar Month up to and including the last Day of the Month . . ..

5.8.5. **"Open Time"** means any unassigned flying that is not placed into Bid Lines, flying that becomes available for reasons such as Training, vacations, sick leave . . ., other unforeseen circumstances after completion of Bid Awards, flying that is not assigned to Crewmembers already on duty and all other flying that is placed in the Open Time system".

5.8.6. **"Scheduled Duty Free Day Off [SDFDO]"** means a Day or series of Days a Crewmember is not subject to Company direction . . ..

See, Exhibit I, pp.23-26 (specifically Section 2 J and numbered as pages 11-14 on the CBA document itself.

5.9. Under Section 17 of the CBA titled "Scheduling", there are additional definitions or explanations of terms which include the following:

5.9.1. **Bid Period.** A Bid Period will consist of a Month as defined in Section 2 (Definitions).

5.9.2. **Bid Line Construction.** Under this section, the CBA discusses that a Bid Line includes but is not limited to Duty Days, and Days Free of Duty, with the directive that a Bid Line cannot exceed more than 16 consecutive Duty Days and must include a minimum of either 14 or 15 Scheduled Duty Free Days Off per bid Month, depending on if there are 30 or 31 days in the Month.

Minimum Bid Guarantee Under the CBA –

5.10. The CBA provides that each pilot ("Crewmember") will receive a Minimum Bid Period Guarantee ("MBPG") (also referred to herein as "Bid Line Guarantee"). *Id, at p. 37, Section 5 C.*

5.11. The MBPG that applies to Crewmembers, thus to Mr. Eshagi, is 64 Pay Credit Hours ("PCH"). Meaning, regardless of the Crewmembers' actual flight schedule during any given Bid Month, they are guaranteed to be paid a minimum of 64 hours. This figure will be prorated if a Crewmember is not available for Duty during any portion of their Bid Period. *Id.*

Monthly Pay Under CBA –

5.12. The CBA provides the terms for the Crewmembers' pay structure. *See Generally, Id., Section 5 (Compensation), pp. 37-43 (pp. 25-31 of actual CBA document).*

5.13. Section 5 D of the CBA reads, in pertinent part, as follows:

> D. Monthly Pay
>
> 1. A Crewmember will be paid in a Month, his applicable Hourly Rate of Pay, as provided for in Appendix 5-A, including any applicable overrides, as provided for in this Section 5, multiplied by the greater of:
>
> a. Minimum Bid Period Guarantee, pursuant to subsection 5 C;
>
> b. Accrued PCH in the Bid Month pursuant to Section 5; or
>
> c. Bid Line Guarantee.
>
> 2. In addition to pay pursuant to subsection 5.D.1, a Crewmember who works on a Scheduled Duty Free Day Off (SDFDO) will be paid his applicable Hourly Rate of Pay, as provided for in Appendix A, including any applicable overrides, in accordance with the following:
>
> a. Accrued PCH pursuant to Section 5; and
>
> b. The additional PCH set forth in subsection 5.L.

Id at pp. 37-38 (pp. 25-26 of actual CBA document) .

5.14. Section 5 L of the CBA addresses the pay associated when Crewmembers work on their *Scheduled Duty Free Day Off ("SCFDO").* That section reads, in pertinent part, as follows:

> L. Pay on a Scheduled Duty Free Day Off
>
> 1. Open Time Pay
>
> ...
>
> b. **Whenever a Crewmember is awarded an Open Time Duty Assignment, on a SDFDO he will be paid**

hours flown multiplied by 1.5 and paid above MBPG.(Emphasis added.)

Id at pp. 39-40 (pp. 27-28 of actual CBA document).

5.15. "Open Time" is defined above at Conclusion of Law No.4.8.5 and found at *Exhibit I, p. 25 (p. 13 of the actual CBA document).*

Mr. Eshagi's Awarded Bid Line for May 12, 2022, through May 28, 2022 –

5.16. By the 16th of each month, Kalitta Air will publish and offer the available flight schedules for the following Month. The pilots will then bid on those schedules, which are awarded on a seniority basis. The schedules are called "Lines". *Smith Testimony.*

5.17. In mid-April 2022, the available Bid Lines were published, and Mr. Eshagi was awarded Bid Line F125, which would dictate his flight schedule or assigned Duty Days for the Month of May would be from May 12, 2022, through May 28, 2022. *See Exhibit 6, pp. 11-12 (email from Mike Huff [with Kalitta Air] to Mr. Eshagi).*

5.18. Accordingly, Mr. Eshagi's Scheduled Duty Free Days Off for the Bid Month of May 2022, included May 1, 2022, through May 11, 2022. *Eshagi Testimony.*

Mr. Eshagi Resigns on April 30, 2022, to be Effective May 15, 2022 –

5.19. Mr. Eshagi submitted his resignation April 30, 2022, with an effective date of May 15, 2022. *Eshagi Testimony; see also, Exhibit A, pp. 2-3 – Resignation Letter dated April 30, 2022, and emailed same day to Employer.*

5.20. Mr. Eshagi was available to work on his days off from May 3, 2022, through May 11, and worked his awarded Bid Line from May 12, 2022, through May 14, 2022. *Id.*

5.21. Based on this, Mr. Eshagi was available for a combined total of 12 days for the Month of May 2022, which included nine (9) SDFDO and three (3) assigned Duty Days of his May 2022 Bid Line.

Open Time Flights Offered By Employer in Early May 2022 –

5.22. On May 2, 2022, the Employer sent what is called an "email blast" to all Crewmembers offering the following flights: "*OT [overtime] available for the 4th [of May 2022]. Exhibit 6, p. 17.*

5.23. Mr. Eshagi picked up the flight for May 4, 2022, specifically one from LAX [Los Angeles] to SWF [Stewart International in New Windsor New York] and back to LAX. *Eshagi Testimony.*

5.24. Mr. Eshagi also picked additional flights that were offered for May 6, 7, and 8, 2022. *Id.*

Pay Structure Set out in the CBA When a Crewmember Resigns –

5.25. Subsection R of Section 23 of the CBA addresses Resignations and reads, in pertinent part, as follows:

> . . . .
>
> 2. A Crewmember [who resigns and] makes himself available work for at least 14 days of the Bid Month in which he resigns, [] will receive [their] Minimum Bid Period Guarantee or pay and credit, whichever is greater, in accordance with Section 5 (Compensation). The Crewmember's Minimum Bid Period Guarantee will be adjusted on a pro rata basis when he is available for less than 14 days.

5.26. There is nothing in the CBA, either in this Resignation subsection or otherwise, that states that a resigning Crewmember's remaining days on the job for the Bid Month at issue (the Month the resignation is effective) were no longer classified as either Duty Days, or Scheduled Duty Free Days Off for purposes of determining whether that same Crewmember would be entitled to the 150% premium pay if they worked on what was originally to be a SCFDO.

A Dispute Arises as to the Pay Mr. Eshagi is Entitled to for Hours Flown in May 2022 –

5.27. Upon receiving his paycheck(s) that represent the hours worked and flown for the Month of May 2022, Mr. Eshagi informed the Employer that he was entitled to additional pay as set out in the Collective Bargaining Agreement, including, but not limited to the 150% premium pay for flights he agreed to take on what were his original Scheduled Duty Free Days Off. *Eshagi Testimony.*

5.28. Mr. Eshagi and Kalitta Air engaged in discussions about this pay dispute but were not able to come to an agreement, thus, Mr. Eshagi filed a Wage Complaint with the Department.

Wage Complaint –

5.29. On September 14, 2022, the Department of Labor and Industries received a wage complaint from Mr. Eshagi ("Wage Complaint"). *See, Exhibit 3, pp, 1-2.*

5.30. The Wage Complaint states Mr. Eshagi's argument that Kalitta Air, LLC failed to pay him wages owed based on "extra" fly time for the period of May 3, 2022, through May 8, 2022, that should have been paid at 150% of his regular rate of pay, in additional to his Minimum Bid Period Guarantee (MBPG) . *Id.*

5.31. The Wage Complaint was based on the terms set forth for Crewmembers under the Collective Bargaining Agreement. *Id.*

5.32. Shafin Nagji was the Department's Industrial Relations Agent assigned to the case. *Shafin Testimony*. After reviewing information supplied by the Appellant and the Employer, Mr. Nagji recommended issuing a Determination of Compliance. *Id.*; Ex. 19, pg. 1-3. The basis for the Department's decision is that the Appellant did not prove that he was entitled to additional wages for the period at issue under Washington's wage payment laws. Ex. 19, pg. 3.

5.33. During Mr. Nagji's investigation, he advised Mr. Eshagi that he should withdraw his Wage Complaint and then file a grievance with his Union, because the Department did "*not have the jurisdiction [authority] over the Collective Bargaining Agreement*". *Exhibit 18, p. 2.*

5.34. Mr. Eshagi did not withdraw his Wage Complaint, and the Department had no choice but to issue a decision in the matter.

5.35. On September 14, 2023, the Department issued a Determination of Compliance ("DOC"). The Determination of Compliance stated that the Employer did not violate the Washington State Wage Payment Act or Minimum Wage Act concerning Abi Eshagi. *Exhibit 1, pp. 1-3.*

5.36. On October 13, 2023, Mr. Eshagi appealed the Department's Determination of Compliance. *Exhibit 2, pp. 1-2.*

Employer's Position re Wages Owed –

5.37. At hearing, through Mr. Smith it appears that the Union's and the Employer's position is that a Crewmember is required to be available for his scheduled flight days for their Bid Line to receive the 150% pay for flights worked on their Scheduled Duty Free Days Off ("SDFDO"). *Smith Testimony.*

5.38. There is no provision in the CBA that speaks to this directly. *See generally, Exhibit I (Collective Bargaining Agreement).*

5.39. Mr. Smith also points to Section 4 of the CBA for the premise that the Employer has the right to treat a situation that is not directly addressed in the CBA in the same way that a such a situation has been treated in the past. *Id.*

5.40. Section 4 of the CBA, titled Management Rights reads, in pertinent part, as follows:

> 1. The Company [Employer] retains the sole and exclusive right to operate, control and manage its business and exercise traditional management rights, powers or authority it had prior to signing this Agreement, except as modified or limited specifically by an express provision of this Agreement . . .."

See, Exhibit I, p. 35 (p. 23 of actual CBA document).

5.41. Mr. Smith explained that in the past 25 years, when a Crewmember has failed to work their Bid Line (presumably because the Crewmember was not available for any reason, including the scenario where they had resigned and would not fly their full Bid Line, and not because a flight was cancelled), any such Crewmember has never been paid the 150% ("OT") rate for flights taken on one of their SDFDO. *Smith Testimony.*

5.42. Apparently, at no point in the past has a Crewmember ever complained or launched a grievance for failing to be paid the 150% premium for flights on their SDFDO, when they did not end up being available to fly their Bid Line. *Id.*

5.43. The premise is that when the Employer conducts itself in a certain way for a period of time and there is never a complaint launched by a Crewmember, this conduct is considered to have set a precedent, also termed as a past practice. *Id.*

5.44. It should be noted that Mr. Smith went further to say that the specific issue was discussed at the bargaining table, and it was agreed that there was no reason to specifically address a right in the CBA that was already conferred upon and exercised historically by the Employer.

5.45. Thus, the argument is that since it had historically been the Employer's practice not to pay a Crewmember the 150% premium when they are not available for their full Bid Line, and no Crewmember has ever complained or challenged this practice, it naturally flows that Mr. Eshagi is also not entitled to the 150% premium for the extra flights flown in early May 2022. *Id.*

5.46. Along those same lines, the Employer also maintains that when a Crewmember resigns, they become essentially a free agent and that their Bid Line associated with the Month that the resignation is effective essentially "goes away", as well as the designation that the Crewmember's days off are classified as SDFDO. *Smith Testimony. Id.*

5.47. As with the concept of a Crewmember not being entitled to the 150% pay for SDFDO flights when not available for their full Bid Line, there is nothing in the CBA that speaks to the premise that the Bid Line essentially "goes away" when a Crewmember resigns and will not be available to work their Bid Line for that final Month.

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6. CONCLUSIONS OF LAW

Based upon the factual background set forth above, I make the following conclusions:

Jurisdiction – Subject Matter –

6.1. A court is provided the power to hear and determine a case through what is termed "jurisdiction." *Goldsmith v. Dep't of Soc. & Health Servs.,* 169 Wn.App. 573, 580 (Div 2 2012) (citing *State v. Golden*, 112 Wn. App. 68, at 72, 47 P.3s 587 (2002).

6.2. The issue of whether a court has subject matter jurisdiction to hear a case can be raised at any point during the proceeding. *Id.*

6.3. *"Without subject matter jurisdiction, a court or administrative tribunal can do nothing other than dismiss the action". Id. (citing Inland Foundry Co. V. Spokane County Air Pollution Control Authority,* 98 Wn. App. 121, at 123-124, 989 P.2d 102 (1999)).

6.4. The Office of Administrative Hearings ("OAH") and the Administrative Law Judge ("ALJ") presiding over a case, must have jurisdiction to hear and decide the matter. Therefore, an ALJ must confirm that they have jurisdiction to resolve the case before them. Typically, jurisdiction for OAH and the ALJ flows from the jurisdiction of the agency which is involved. So, fundamentally at issue is whether the Department of Labor and Industries ("Department") had jurisdiction to issue the Determination of Compliance.

6.5. This issue was originally raised in a pre-hearing motion brought by Mr. Eshagi, because, as the facts above indicate, he had been informed by the Department that it lacked jurisdiction "*over the Collective Bargaining Agreement*".

6.6. As laid out in Section 4 above (Relevant Procedural History), this Tribunal ruled that the Department did have jurisdiction but clarified that the grant of jurisdiction was conditioned upon there being no need for the terms of the Collective Bargaining Agreement themselves to be interpreted.

6.7. The following lays out the Federal preemption laws and this Tribunal's analysis of whether Mr. Eshagi's appeal must be dismissed, in whole or in part, as preempted under § 301 of the Labor Management Relations Act.

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Federal Labor Law Preemption of State Labor Laws –

6.8. Section 301 ("§ 301") *of the Labor Management Relations Act ("LMRA")* vests jurisdiction in federal courts over *"suits for violation of contracts between an employer and a labor organization . . .."* 29 U.S.C. § 185(a).

6.9. The United States Supreme Court has interpreted this jurisdictional grant to compel complete preemption of state law claims to enforce Collective Bargaining Agreements ("CBA"). *See Valles v. Ivy Hill Corp,* 410 F.3d 1071 (9th Cir. 2005) (*citing Avco Corp. v. Aero Lodge No. 735*, 390 U.S. 557, 560 20 L.Ed.2d 126, 88 S. Ct. 1235 (1968).

6.10. Moreover, the United States Supreme Court has made it clear that this is a complete preemption when the resolution of a case turns on or is substantially dependent upon the analysis or interpretation of the terms of a CBA. *Id. (citing Allis-Chalmers Corp. v. Lueck,* 471 U.S. 202, 220, 85 L.Ed. 2d 206, 105 S. Ct. 1904 (1985) (additional string citations omitted).

6.11. The Supreme Court has reasoned that expanding the textual confines of § 301 serves to promote uniformity in the interpretation of Collective Bargaining Agreements and, in the process, to meet the goal of preserving a body of consistent federal labor law. *See Lingle v. Norge Division of Magic Chef,* 486 U.S. 399 (1988).

6.12. In addition, the expansion of the preemption law under § 301 was designed to promote the federal policy that favors arbitration and prevents the parties from turning to state law litigation to avoid or alter negotiated provisions of a CBA, including the dispute resolution procedures. *Id.* (internal citations omitted).

6.13. At the same time, the Supreme Court has also consistently held that § 301 is not meant to preempt a claim based on state law labor rights that are independent of the parties rights found under the CBA, and the mere fact that a CBA must be consulted does not require that the state law claim be extinguished, as long as the meaning of the contract terms are not in dispute and the case does not require that the terms of the CBA must be analyzed and interpreted to reach a resolution. *Id.* (internal citations omitted).

Washington States' Wage Payment and Minimum Wage Laws –

6.14. If an employee files a wage complaint, the Department **must** investigate. RCW 49.48.083(1)

6.15. Unless the case is otherwise resolved between the parties and/or the wage complaint is withdrawn, the Department must either determine that the employer violated one or more wage payment requirements under the applicable statutes and issue a Citation and Notice of Assessment or determine that no wage law has been violated and issue a Determination of Compliance. RCW 49.48.083(1); RCW 49.48.082(1), (3), (7).

6.16. Wage payment requirements are those "*set forth in RCW 49.46.020, 49.46.130, 49.48.010, 49.52.050, or 49.52.060, and any related rules adopted by L&I.*" RCW 49.48.082(12).

6.17. RCW 49.52.050 provides as follows:

> Any employer . . . who willfully and with intent to deprive the employee of any part of his or her wages, shall pay any employee a lower wage than the wage such employer is obligated to pay such employee by any statue, ordinance ***or contract*** . . . [s]hall be guilty of a misdemeanor. (Bold/Italics added.)

RCW 49.52.050.

6.18. It is generally understood that employers must pay their employees any "Agreed Wage" that has been negotiated between the parties that is more favorable than Washington's wage payment laws. This can include many different types of pay, including regular or premium rates of pay for certain types of tasks or shifts worked, etc.

6.19. One of the pertinent statutes in this case is RCW 49.46.130, which addresses an employer's obligation to compensate any employee that works greater than 40 hours in a given workweek at a rate of not less than 1.5 times (or 150%) their regular hourly rate of pay, unless the employee is either exempt (such as a salaried employee) or fits into one of the exceptions. RCW 49.46.130.

6.20. There is nothing in Washington's wage payment laws that provides for overtime or premium pay except for the mandate provided in RCW 49.46.130 as cited above involving employees who work greater than 40 hours in any workweek.

6.21. And, as further discussed below, while the premium pay of 150% complained of by Mr. Eshagi serves as an "Agreed Wage", this is solely derived from the terms of the CBA.

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Mr. Eshagi's Claim for Premium Pay of 150% For Flights Flown on his SDFDO is Derived Solely from the Collective Bargaining Agreement –

6.22. The Collective Bargaining Agreement only speaks to a premium of 150% to be paid when a Crew Member agrees to take flights on their Scheduled Duty Free Days Off and does not address overtime or premium pay specifically based on the number of hours worked during any workweek.

6.23. Thus, Mr. Eshagi's claim is derived solely from the provisions that address this scenario in the CBA and cannot be independently brought solely under Washington's wage payment laws.

6.24. The question here is whether § 301 of the LMRA preempts Mr. Eshagi's Washington State Wage Complaint because there is a Collective Bargaining Agreement that speaks directly to his claim, and the relevant provisions of the CBA require interpretation.

6.25. As set forth below, this Tribunal finds that Mr. Eshagi's Wage Complaint, to the extent it is based on and requires interpretation of the terms in the CBA, is preempted by § 301 of the LMRA and this Tribunal does not have the jurisdiction to resolve that portion of this matter.

Mr. Eshagi's Wage Complaint Requires Interpretation of the CBA –

6.26. In this case, Mr. Eshagi bases his Wage Complaint on the provisions and specific terms found in the CBA.

6.27. As mentioned above, this Wage Complaint, as pled by Mr. Eshagi, cannot be independently and separately derived from Washington's wage payment laws without turning to and interpreting the terms of the CBA.

6.28. To illustrate, this is not a simple case of just consulting the terms of the CBA to obtain certain information such as what a particular class of employees' hourly rate of pay is for certain types of work.

6.29. Moreover, the Employer's argument or defense is, at least in part, based on the Management Rights clause in the CBA, claiming that past practice or precedent prevails, as well as the idea that this was discussed at the bargaining table, and it was agreed that there was no reason to specifically address a right in the CBA that was already conferred upon and exercised historically by the Employer.

6.30. These arguments and defenses also require interpretation of the terms of the CBA and, perhaps, what was bargained for.

6.31. Thus, there is no other conclusion that can be made here except that Mr. Eshagi's appeal, to the extent his claims are based on the terms and

interpretation of the CBA is preempted by § 301 of the LMRA and must be DISMISSED.

6.32. However, this Tribunal does have jurisdiction to determine if Mr. Eshagi has proven, through his Wage Complaint and evidence presented, that specific Washington wage payment laws were violated.

6.33. As to that question, the answer is NO, the Employer did not violate the provisions of the Washington Wage Payment laws, thus, the Department's Determination of Compliance, dated September 14, 2023, must be AFFIRMED.

7. INITIAL ORDER

IT IS HEREBY ORDERED THAT:

7.1. Mr. Eshagi's Washington Wage Complaint filed with the Department of Labor and Industries was based on the terms of the Collective Bargaining Agreement and require interpretation of that Agreement. Thus, his appeal is **DISMISSED** as preempted by § 301 of the federal LMRA.

7.2. The Department of Labor and Industries' Determination of Compliance, dated September 14, 2023, is **AFFIRMED**.

Issued from Olympia, Washington on the date of mailing.

Di Rudman
Administrative Law Judge
Office of Administrative Hearings

CERTIFICATE OF SERVICE ATTACHED

PETITION FOR REVIEW

Any party that disputes this Initial Order may file a Petition for Review with the Director of the Department of Labor and Industries.[1] You may e-mail your Petition for Review to the Director at directorappeal@lni.wa.gov. You may also mail or deliver your Petition for Review to the Director at the Department's physical address listed below.

Mailing Address:
Director
Department of Labor and Industries
PO Box 44001
Olympia, WA 98504-4001

Physical Address:
7273 Linderson Way SW
Tumwater, WA 98501

If you e-mail your Petition for Review, please do not mail or deliver a paper copy to the Director.

Whether you e-mail, mail or deliver the Petition for Review, the Director *must actually receive* the Petition for Review during office hours at the Director's office within 30 days of the date this Initial Order was mailed to the parties. You must also provide a copy of your Petition for Review to the other parties at the same time.

If the Director does not receive a Petition for Review within 30 days from the date of the Initial Order, the Initial Order shall become final with no further right to appeal.[2]

If you timely file a Petition for Review, the Director will conduct an administrative review under chapter 34.05 RCW.

[1] RCW 49.48.084 and RCW 34.05.464.
[2] RCW 49.48.084 and Chapter 34.05 RCW.

CERTIFICATE OF SERVICE FOR OAH DOCKET NO. 01-2024-LI-02033

I certify that true copies of this document were served on those listed below, from Olympia, Washington via Consolidated Mail Services by one of the following: First Class Mail, Certified Mail, Hand Delivery via Messenger, Campus Mail, Facsimile, or by email.

Abi Eshagi 18717 156th Ave NE Woodinville, WA 98072 ***Appellant/Wage Claimant***	☐ First Class Mail ☒ Certified Mail, Return Receipt ☐ Campus Mail ☒ E-mail abieshagi@gmail.com
Kaitlin Loomis, AAG Office of the Attorney General Labor & Industries Division 800 Fifth Avenue Suite 2000 Seattle, WA 98104 ***Agency Representative***	☐ First Class Mail ☐ Certified Mail, Return Receipt ☐ Campus Mail ☒ E-mail Kaitlin.Loomis@atg.wa.gov Melanie.Ruha@atg.wa.gov lniseaeservice@atg.wa.gov
Laurie Stockton V.P. of Human Resources 818 Willow Run Airport Ypsilanti, MI 48198 ***Respondent/Employer***	☒ First Class Mail ☐ Certified Mail, Return Receipt ☐ Campus Mail ☐ E-mail

Date: Thursday, May 22, 2025

OFFICE OF ADMINISTRATIVE HEARINGS

Larissa Smith

Larissa Smith
Legal Assistant 2