

Republic of the Philippines
Department of Labor and Employment
NATIONAL LABOR RELATIONS COMMISSION
Quezon City
FOURTH DIVISION

UTILSTAF INC

NLRC CASE NO. LAC
RAB CASE NO

LER 12-311-16
08-23099-15

Complainant(s),

- versus -

GIRLIE NINA ASINAS ET AL

x ----- Respondent(s), --- x

NOTICE OF RESOLUTION

GIRLIE NINA ASINAS

39 PUROK 1 PRADO SIONGO
LUBAO PAMPANGA

UTILSTAFF INC

UNIT 319 CHARLIE BLDG
SUBIC INTERNATIONAL HOTEL
COMPLEX CBD AREA SBFZ
SBMA OLONGAPO CITY
ZAMBALES

JHOAN GUTIERREZ

15 RAMIRES ST GORDON HEIGHTS
OLONGAPO CITY ZAMBALES

HON REYNALDO V. ABDON

LABOR ARBITER OF NLRC
SAN FERNANDO PAMPANGA
NLRC REGION III ASCORP BLDG
SAN FERNANDO PAMPANGA

ATTY GENE VINCENT G. PEREZ

PEREZ LAW OFFICE LEGAL AID
VMJ BLDG 2196 ROOM 205, EBB,
OLONGAPO CITY ZAMBALES

Gentlemen

You are hereby notified by these presents that on February 28, 2017 a(n) RESOLUTION was issued in the above-entitled case, copy is hereto attached and the original of which is on file.

Quezon City, Philippines, March 07, 2017.


GLAILA V. DELOS REYES
Administrative Assistant V

Republic of the Philippines
Department of Labor and Employment
NATIONAL LABOR RELATIONS COMMISSION
Quezon City

FOURTH DIVISION

UTILSTAF INC.,
Petitioner,

-versus-

NLRC LER Case No. 12-311-16
NLRC CASE No. RAB III 08-23099-15
NLRC CASE No. RAB III 09-23166-15

THE HON. LABOR ARBITER OF
NLRC SAN FERNANDO, PAMPANGA
(REYNALDO V. ABDON),
GIRLIE NINA ASINAS and
JHOAN GUTIERREZ,
Respondents,

X-----X Promulgated:

FEB 28 2017/8

RESOLUTION

Julve, B.B., Comm.

This resolves the Petition for Extraordinary Remedies pursuant to Rule XII of the 2011 NLRC Rules of Procedure filed by the UTILSTAF INC. which seeks for the reversal the Resolution of Labor Arbiter Reynaldo V. Abdon dated 10th October 2016 (Records, pp. 17-19). In the assailed Resolution, the Labor Arbiter dismissed the Petitioner's Third Party Claim for lack of merit and directed the Sheriff to continue the implementation of the Writ of Execution, particularly, resetting the Public Auction sale of the shares of stocks. In the instant petition and third party claim, Petitioner prays for the suspension of the alleged unjust levy and sale of its shares of stock

CERTIFIED TRUE COPY
NLRC 4th DIVISION
QUEZON CITY
GLAIZA V. DELOS REYES
ADMINISTRATIVE ASSISTANT V

RESOLUTION
UTILSTAF INC. v THE HON.
LABOR ARBITER OF NLRC
SAN FERNANDO, PAMPANGA
(REYNALDO V. ABDON), ET. AL.
NLRC LER Case No. 12-311-16
NLRC CASE No. RAB III 08-23099-15
NLRC CASE No. RAB III 09-23166-15
Page | 2

and its stockholders' shares from execution on a judgment obligation incurred by MYCYBERSTAFF INC. and should be satisfied with its own assets as the real party-in-interest.

On 29th December 2016, this Commission issued an Order granting the application for the issuance of a temporary restraining order to enjoin the enforcement of the assailed Resolution conditioned on the posting of a bond in the amount of Php50,000.00 within ten (10) days from receipt thereof. The Public Respondent was ordered to elevate the entire record of the case and private respondents Girlie Nina Asinas and Jhoan Gutierrez were directed to file their comment/opposition to the petition.

To date, no bond has been posted. Instead, on 27th January 2017, Mr. Cornelis Ronald Bosman filed a pleading: "WITHDRAWAL OF URGENT EX-PARTE THIRD PARTY CLAIM." Mr. Bosman avers that he did not sign the URGENT EX-PARTE THIRD PARTY CLAIM filed on 6th September 2016 and it is not true that, as stated in the document, he is the representative of UTILSTAFF INC. who caused the preparation of said Third Party Claim. (Records, pp. 20-30) He categorically denies signing any document filed with the Commission. Further, Mr. Bosman states that the property offered as collateral for a property bond is his personal property, not the property of Petitioner UTILSTAFF, INC. and was offered as collateral without his consent/approval. Thus, Mr. Bosman is requesting the Commission to withdraw the subject third-party claim alleging that the signature on said document is not his.

On 31st January 2017, private respondent Girlie Nina Asinas filed a MOTION TO BE INCLUDED IN DISTRIBUTION OF DOCUMENTS of the instant case. Ms. Asinas claims that she was not furnished any documents relating to this case. She noticed that her address in the Commission is wrong and that her correct address is 15 Ramirez St., Gordon Heights, Olongapo City.

CERTIFIED TRUE COPY
NLRC 4th DIVISION
QUEZON CITY
GLAIZA V. DELOS REYES
ADMINISTRATIVE ASSISTANT V

RESOLUTION

**UTILSTAF INC. v THE HON.
LABOR ARBITER OF NLRC
SAN FERNANDO, PAMPANGA
(REYNALDO V. ABDON), ET. AL.**

NLRC LER Case No. 12-311-16

NLRC CASE No. RAB III 08-23099-15

NLRC CASE No. RAB III 09-23166-15

Page | 3



Further, Ms. Asinas avers that Mr. Murto Nel does not have the capacity to file the appeal on behalf of Utilstaff, Inc. Mr. Bosman, who allegedly signed the EX-PARTE THIRD PARTY CLAIM, has filed a motion with the NLRC, San Fernando to withdraw the same claiming that the signature on said pleading was forged. Furthermore, Mr. Bosman stated that several warrants for the arrest of Mr. Murto Nel were issued by Branch 74 & 75 of the Regional Trial Court, Olongapo City and Mr. Nel has apparently fled the country.

In view of the foregoing and for the failure on the part of the Petitioner to post a bond in compliance with the Order of this Commission dated 29th December 2016, we have no basis to proceed with the disposition of the instant petition and sees no reason to restrain the enforcement of the assailed Resolution dated 10th October 2016 rendered by Labor Arbiter Reynaldo V. Abdon, much less, to reverse and set aside said Resolution and suspend the implementation of the Writ of Execution.

WHEREFORE, this Petition filed by petitioner UTILSTAF, INC. under Rule XII (Extraordinary Remedies) of the 2011 NLRC Rules of Procedure (As Amended by EN BANC Resolution Nos. 11-12, 01-13, 05-14, 07-14, 02-15 and 14-15) is **DENIED** for lack of merit.

SO RESOLVED.


BERNARDINO B. JULVE
Commissioner



**CERTIFIED TRUE COPY
NLRC 4th DIVISION
QUEZON CITY**
GLAIZA N. DELOS REYES
ADMINISTRATIVE ASSISTANT V

RESOLUTION

UTILSTAF INC. v THE HON.

LABOR ARBITER OF NLRC

SAN FERNANDO, PAMPANGA

(REYNALDO V. ABDON), ET. AL.

NLRC LER Case No. 12-311-16

NLRC CASE No. RAB III 08-23099-15

NLRC CASE No. RAB III 09-23166-15

Page | 4

WE CONCUR:



LEONARD VINZ O. IGNACIO
Commissioner



GRACE M. VENUS
Presiding Commissioner


CERTIFICATION

Pursuant to Article 213 of the Labor Code, as amended by R.A. 6715, it is hereby certified that the conclusions in the above **RESOLUTION** were reached in consultation before the case was assigned to the writer of the opinion of the Commission.



GRACE M. VENUS
Presiding Commissioner

/002-JJ

CERTIFIED TRUE COPY
NLRC 4th DIVISION
QUEZON CITY

GLAUZA V. DELOS REYES
ADMINISTRATIVE ASSISTANT V

88