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267 NLRB No. 103

D--1065
Detroit, MI

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

DOLLAR RENT-A-CAR SYSTEMS, INC.
DOLLAR RENT-A-CAR, MICHIGAN, INC.

and

Case 7--CA--21538

LOCAL 299, INTERNATIONAL
BROTHERHOOD OF TEAMSTERS,
CHAUFFEURS, WAREHOUSEMEN AND
HELPERS OF AMERICA

DECISION AND ORDER

Upon a charge filed on 16 December 1982, by Local 299, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, herein called the Union, and duly served on Dollar Rent-A-Car Systems, Inc., herein called Respondent Systems, and Dollar Rent-A-Car, Michigan, Inc., herein called Respondent Michigan, and collectively called Respondents, the General Counsel of the National Labor Relations Board, by the Regional Director for Region 7, issued a complaint on 31 January 1983 against Respondents, alleging that Respondents had engaged in and were engaging in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the National Labor Relations Act, as amended. Copies

of the charge and complaint and notice of hearing before an administrative law judge were duly served on the parties to this proceeding.

With respect to the unfair labor practices, the complaint alleges that the Union was certified on 15 March 1982 as exclusive collective-bargaining representative of all employees in an appropriate unit employed by Dollar-Detroit, Inc., d/b/a Dollar Rent-A-Car, herein called Dollar-Detroit. The complaint further alleges that, on or about 24 October 1982, Respondent Systems assumed operation of its franchise at Detroit Metropolitan Airport previously operated by Dollar-Detroit. The complaint further alleges that, on or about 29 October 1982, Respondent Michigan began operation of this franchise at Detroit Metropolitan Airport as a corporate subsidiary of Respondent Systems. The complaint alleges that both Respondents have engaged in the same business operations, at the same location, selling the same service to substantially the same customers, and have as a majority of their employees individuals who were previously employees of Dollar-Detroit. The complaint also alleges that Respondents have been affiliated business enterprises with common ownership, management, and supervision, have formulated and administered a common labor policy affecting employees of said operations, and have held themselves out to the public as a single integrated business enterprise. The complaint alleges that Respondents are thereby successor employers to Dollar-Detroit and a single employer within the meaning of the Act. The complaint also alleges that, since on or about 26 October 1982, Respondents

have refused and continue to date to refuse to recognize and bargain collectively with the Union as successors to Dollar-Detroit, although the Union is requesting them to do so. The complaint alleges that Respondents, by the foregoing conduct, have violated Section 8(a)(5) and (1) of the Act. Respondents, although duly served, failed to file an answer to the complaint.

Thereafter, on 19 April 1983, counsel for the General Counsel filed directly with the Board ''Motions To Transfer Case to the Board and for Default Summary Judgment,'' together with exhibits, based on Respondents' failure to file an answer to the complaint. Subsequently, on 26 April 1983, the Board issued an order transferring the proceeding to the Board and a Notice To Show Cause why the General Counsel's Motion for Default Summary Judgment should not be granted. Respondents, although duly served, failed to file a response to the Notice To Show Cause and thus the allegations of the Motion for Default Summary Judgment stand uncontroverted.[1]

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[1] Subsequent to filing the Motion for Default Summary Judgment, the General Counsel submitted a letter to the Board, stating that the summary judgment motion, served by regular mail on Respondent Michigan, had been returned to the Region. The General Counsel appended to that letter another letter, dated 19 May 1983, from the Regional Director to Donald J. Riley, vice president of operations for Respondent Systems. In that letter, the Regional Director referred to an earlier claim by Respondent Systems that, effective 11 April 1983, Respondent Michigan no longer conducted business in Michigan. The Regional Director indicated that the Region had attempted to serve the summary judgment motion personally on Respondent Michigan at its Detroit Metropolitan Airport facility, but allegedly the facility was now operated by Dollar Rent-A-Car, Inc. d/b/a Thompson Rent-A-Car, Inc. According to her letter, counsel for the General Counsel has now (continued)

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Upon the entire record in this proceeding, the Board makes the following:

Ruling on the Motion for Default Summary Judgment

Section 102.20 of the Board's Rules and Regulations, Series 8, as amended, provides as follows:

> The respondent shall, within 10 days from the service of the complaint, file an answer thereto. The respondent shall specifically admit, deny, or explain each of the facts alleged in the complaint, unless the respondent is without knowledge, in which case the respondent shall so state, such statement operating as a denial. All allegations in the complaint, if no answer is filed, or any allegation in the complaint not specifically denied or explained in an answer filed, unless the respondent shall state in the answer that he is without knowledge, shall be deemed to be admitted to be true and shall be so found by the Board, unless good cause to the contrary is shown.

The complaint and notice of hearing served on Respondents specifically states that, unless an answer is filed within 10 days of service thereof, all of the allegations in the complaint shall be deemed to be admitted to be true and may be so found by

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[1] attempted to serve Respondent Michigan by service on Respondent Systems, whom it alleges to be a single employer with Respondent Michigan.

We note that Respondent Systems was originally served with the General Counsel's motions by certified mail. Inasmuch as we find herein that Respondents constitute a single employer, service on Respondent Systems constitutes service on Respondent Michigan. See, e.g., G. W. Wilson a/k/a G. W. Truck; Upland Freight Lines, Inc., 240 NLRB 333, 334--335 (1979); Barrington Plaza and Tragniew, Inc., 185 NLRB 962, 969 (1970). As no party has formally presented to us the issue of Respondent Michigan's continued existence, we do not pass on that issue here.

the Board. According to the Motion for Default Summary Judgment, the Regional Director, on 31 January 1983, served the complaint on Respondent Systems by certified mail, and on Respondent Michigan by regular mail. Respondents failed to file an answer to the complaint. On 1 April 1983, the Regional attorney then sent a letter to Respondent Systems requesting an answer to the complaint by 11 April 1983, and advising it that, unless an answer to the complaint was filed by that date, he would seek summary judgment in the proceeding. The Regional Director has certified that, as of 19 April 1983, the date of the motions, no answer had been received from Respondents. As noted, Respondents have also failed to respond to the Board's later Notice To Show Cause.

As Respondents failed to file an answer within 10 days from the service of the complaint and have not established ''good cause'' under Section 102.20 of the Board's Rules and Regulations for failure to answer the complaint, the allegations of the complaint are deemed to be admitted to be true and are so found by the Board. Accordingly, we shall grant the General Counsel's Motion for Default Summary Judgment.[2]

On the basis of the entire record, the Board makes the following:

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[2] In granting the General Counsel's Motion for Default Summary Judgment, Chairman Dotson specifically relies on the total failure of Respondents to contest either the factual allegations or the legal conclusions of the General Counsel's complaint. Thus, the Chairman regards this proceeding as being essentially a default judgment which is without precedential value.

Findings of Fact

I. The Business of Respondents

Respondent Systems, a California corporation, at all times material herein has been engaged in the operation of a nationwide auto rental business and the franchising of auto rental businesses. Respondent Systems maintains its principal office and place of business at 6141 West Century Boulevard, Los Angeles, California, and maintains other places of business in various other States in the United States. During the 12-month period ending 31 December 1982, Respondent Systems derived gross revenues in excess of $1 million, of which in excess of $50,000 represented franchise fees and payments received from franchise holders located outside the State of California.

Respondent Michigan, a Michigan corporation, at all times material herein has been engaged in the auto rental business. Respondent Michigan has maintained its office and place of business at Detroit Metropolitan Airport, north terminal, Romulus, Michigan. Based on a projection of its operations since commencing business on or about 24 October 1982, Respondent Michigan in the course of its business operations will annually derive gross revenues in excess of $500,000 and will purchase automobiles and other goods and materials valued in excess of $50,000 from points located outside the State of Michigan and will have them shipped directly to its facility located at Detroit Metropolitan Airport in Romulus, Michigan.

At all times material herein, Respondents have been affiliated business enterprises with common ownership,

management, and supervision; have formulated and administered a common labor policy affecting employees of both operations; and have held themselves out to the public as a single integrated business enterprise.

We find, on the basis of the foregoing, that Respondents are, and have been at all times material herein, a single integrated business enterprise and a single employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act, and that it will effectuate the policies of the Act to assert jurisdiction herein.

II. The Labor Organization Involved

Local 299, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, is a labor organization within the meaning of Section 2(5) of the Act.

III. The Unfair Labor Practices

On or about 24 October 1982 Respondent Systems assumed operation of its auto rental franchise at Detroit Metropolitan Airport previously operated by Dollar-Detroit. On or about 29 October 1982 Respondent Michigan began operation of the car rental franchise at Detroit Metropolitan Airport as a corporate subsidiary of Respondent Systems. Since these dates, Respondents have engaged in the same business operations, at the same location, selling the same service to substantially the same customers, and have as a majority of their employees individuals who were previously employees of Dollar-Detroit. By virtue of the operations noted above, we find that Respondents have continued

the employing entity and are successor employers to Dollar-Detroit.

The following employees of Respondents constitute a unit appropriate for collective-bargaining purposes within the meaning of Section 9(b) of the Act:

> All employees, including all service representatives, rental representatives, and office clerical employees, employed by Dollar-Detroit, Inc., d/b/a Dollar Rent-A-Car and subsequently employed by Respondents at their facility located at Metropolitan Airport, Romulus, Michigan; but excluding the branch manager, guards, and supervisors as defined in the Act.

On 15 March 1982 the Union was certified as the collective-bargaining representative of the employees in the above unit and, at all times since that date, the Union has been the exclusive representative of the employees for collective-bargaining purposes within the meaning of Section 9(a) of the Act.

Commencing on or about 25 October 1982, and at all times thereafter, the Union has requested Respondents to recognize it and to bargain collectively with it as the exclusive collective-bargaining representative of all the employees in the above-described unit. Commencing on or about 26 October 1982, and continuing at all times thereafter to date, Respondents have refused, and continue to refuse, to recognize and bargain with the Union as the exclusive representative for collective bargaining for all employees in said unit.

Accordingly, based on the above, we find that Respondents as successor employers to Dollar-Detroit have, since 26 October 1982, and at all times thereafter, refused to bargain collectively with the Union as the exclusive representative of

the employees in the appropriate unit, and that, by such refusal, Respondents have engaged in and are engaging in unfair labor practices within the meaning of Section 8(a)(5) and (1) of the Act. See, e.g., N.L.R.B. v. Burns International Security Services, Inc., 406 U.S. 272 (1972).

IV. The Effect of the Unfair Labor Practices Upon Commerce

The activities of Respondents set forth in section III, above, occurring in connection with the operations described in section I, above, have a close, intimate, and substantial relationship to trade, traffic, and commerce among the several States and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

V. The Remedy

Having found that Respondents have engaged in and are engaging in unfair labor practices within the meaning of Section 8(a)(5) and (1) of the Act, we shall order that they cease and desist therefrom, and, upon request, bargain collectively with the Union as the exclusive representative of all employees in the appropriate unit and, if an understanding is reached, embody such understanding in a signed agreement.

The Board, upon the basis of the foregoing facts and the entire record, makes the following:

Conclusions of Law

1. Respondents Dollar Rent-A-Car Systems, Inc., and Dollar Rent-A-Car, Michigan, Inc., are a single integrated business enterprise and a single employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

2. Local 299, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, is a labor organization within the meaning of Section 2(5) of the Act.

3. All employees, including all service representatives, rental representatives, and office clerical employees, employed by Dollar-Detroit, Inc., d/b/a Dollar Rent-A-Car and subsequently employed by Respondents at their facility located at Metropolitan Airport, Romulus, Michigan; but excluding the branch manager, guards, and supervisors as defined in the Act, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act.

4. Since on or about 24 and 29 October 1982 Respondents have been and are the successors to Dollar-Detroit, Inc., d/b/a Dollar Rent-A-Car.

5. Since 15 March 1982 the above-named labor organization has been and now is the certified and exclusive representative of all employees in the aforesaid appropriate unit for the purpose of collective bargaining within the meaning of Section 9(a) of the Act.

6. By refusing on or about 26 October 1982, and at all times thereafter, to bargain collectively with the above-named labor organization as the exclusive bargaining representative of all the employees of Respondents in the appropriate unit, Respondents have engaged in and are engaging in unfair labor practices within the meaning of Section 8(a)(5) of the Act.

7. By the aforesaid refusal to bargain, Respondents have interfered with, restrained, and coerced, and are interfering

with, restraining, and coercing, employees in the exercise of the rights guaranteed them in Section 7 of the Act, and thereby have engaged in and are engaging in unfair labor practices within the meaning of Section 8(a)(1) of the Act.

8. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act.

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that the Respondents, Dollar Rent-A-Car Systems, Inc., and Dollar Rent-A-Car, Michigan, Inc., Romulus, Michigan, their officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Refusing to recognize and bargain collectively concerning rates of pay, wages, hours, and other terms and conditions of employment with Local 299, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, as the exclusive bargaining representative of their employees in the following appropriate unit:

> All employees, including all service representatives, rental representatives, and office clerical employees, employed by Dollar-Detroit, Inc., d/b/a Dollar Rent-A-Car and subsequently employed by Respondents at their facility located at Metropolitan Airport, Romulus, Michigan; but excluding the branch manager, guards, and supervisors as defined in the Act.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them in Section 7 of the Act.

2. Take the following affirmative action which the Board finds will effectuate the policies of the Act:

(a) Upon request, bargain with the above-named labor organization as the exclusive representative of all employees in the aforesaid appropriate unit with respect to rates of pay, wages, hours, and other terms and conditions of employment and, if an understanding is reached, embody such understanding in a signed agreement.

(b) Post at their Metropolitan Airport, Romulus, Michigan, place of business copies of the attached notice marked ''Appendix.''[3] Copies of said notice, on forms provided by the Regional Director for Region 7, after being duly signed by Respondents' representative, shall be posted by Respondents immediately upon receipt thereof, and be maintained by them for 60 consecutive days thereafter, in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by Respondents to ensure that said notices are not altered, defaced, or covered by any other material.

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[3] In the event that this Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading ''POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD'' shall read ''POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD.''

(c) Notify the Regional Director for Region 7, in writing, within 20 days from the date of this Order, what steps have been taken to comply herewith.

Dated, Washington, D.C. 12 September 1983

Donald L. Dotson, Chairman

Don A. Zimmerman, Member

Robert P. Hunter, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

APPENDIX

NOTICE TO EMPLOYEES

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

WE WILL NOT refuse to bargain collectively concerning rates of pay, wages, hours, and other terms and conditions of employment with Local 299, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, as the exclusive representative of the employees in the bargaining unit described below.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce our employees in the exercise of the rights guaranteed them by Section 7 of the Act.

WE WILL, upon request, bargain with the above-named Union, as the exclusive representative of all employees in the bargaining unit described below, with respect to rates of pay, wages, hours, and other terms and conditions of employment and, if an understanding is reached, embody such understanding in a signed agreement. The bargaining unit is:

All employees, including all service representatives, rental representatives, and office clerical employees, employed by Dollar-Detroit, Inc., d/b/a Dollar Rent-A-Car and subsequently employed at our facility located at Metropolitan Airport, Romulus, Michigan; but excluding the branch manager, guards, and supervisors as defined in the Act.

DOLLAR RENT-A-CAR SYSTEMS, INC.
DOLLAR RENT-A-CAR, MICHIGAN, INC.

(Employer)

Dated ---------- By ----------
(Representative) (Title)

This is an official notice and must not be defaced by anyone.

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office, Patrick V. McNamara Federal Building, 477 Michigan Avenue, Room 300, Detroit, Michigan 48226, Telephone 313--226--3244.