

Heritage Nursing Homes, Inc. and United Food and Commercial Workers Union, Local 214, Chartered by the United Food and Commercial Workers, AFL-CIO-CLC. Cases 30-CA-7407 and 30-CA-7499

16 March 1984

DECISION AND ORDER

**BY CHAIRMAN DOTSON AND MEMBERS
ZIMMERMAN AND HUNTER**

On 30 September 1983 Administrative Law Judge Martin J. Linsky issued the attached decision. The Respondent Company filed exceptions and a supporting brief.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the decision and the record in light of the exceptions and brief and has decided to affirm the judge's rulings, findings,¹ and conclusions and to adopt the recommended Order.

ORDER

The National Labor Relations Board adopts the recommended Order of the administrative law judge and orders that the Respondent, Heritage Nursing Homes, Inc., Sheboygan, Wisconsin, its officers, agents, successors, and assigns, shall take the action set forth in the Order.

¹ The Respondent has excepted to some of the judge's credibility findings. The Board's established policy is not to overrule an administrative law judge's credibility resolutions unless the clear preponderance of all the relevant evidence convinces us that they are incorrect. *Standard Dry Wall Products*, 91 NLRB 544 (1950), *enfd.* 188 F.2d 362 (3d Cir. 1951). We have carefully examined the record and find no basis for reversing the findings.

DECISION

STATEMENT OF THE CASE

MARTIN J. LINSKY, Administrative Law Judge. This case was heard by me on April 5, 1983, in Sheboygan, Wisconsin. Based on unfair labor practice charges filed October 28 and December 16, 1982, by United Food and Commercial Workers Union, Local 214, Chartered by the United Food and Commercial Workers, AFL-CIO-CLC (the Union), against Heritage Nursing Homes, Inc. (the Respondent), the Regional Director for Region 30 issued complaints dated December 9, 1982, and January 31, 1983, respectively. The cases were consolidated by order of the Regional Director dated February 1, 1983. The complaints, as amended at the hearing, allege that the Respondent violated Section 8(a)(1) of the National Labor Relations Act (the Act), on several occasions, by threatening, interrogating, and otherwise coercing employees in the exercise of rights guaranteed under Section 7, and violated Section 8(a)(1), (3), and (4) of the

Act when it refused to allow employee Julie Kinsey to rescind her resignation because of her union sympathies and activities and because of her testimony against the Respondent in a hearing on objections following a representation election. The Respondent denied the commission of any unfair labor practices.

Upon consideration of the entire record, including briefs filed by both parties,¹ and my observation of the witnesses and their demeanor, I make the following

FINDINGS OF FACT

I. JURISDICTION

The Respondent, Heritage Nursing Homes, Inc., is a Wisconsin corporation with office and place of business (the Respondent's facility) in Sheboygan, Wisconsin. At all times material herein, the Respondent has been operating a nursing home at its facilities. During the calendar year ending December 31, 1982, the Respondent, in the course and conduct of its business operations derived gross revenues in excess of \$100,000. During the calendar year ending December 31, 1982, the Respondent, in the course and conduct of its business operations, purchased and received products, goods, and materials valued in excess of \$50,000 directly from points located outside the State of Wisconsin.

The Respondent is now and has been at all times material herein an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

II. LABOR ORGANIZATION

The Union is now and has been at all times material herein a labor organization within the meaning of Section 2(5) of the Act.

III. THE ALLEGED UNFAIR LABOR PRACTICES

The Union began an organizing campaign at the Respondent's nursing home in May 1982. A petition was filed May 24, 1982, and an election was held July 30, 1982, of the service and maintenance employees of the Respondent. The Respondent retained a consultant and conducted a vigorous campaign against the Union. The Union lost the election 53 to 51 with 7 challenged ballots. The Union filed objections alleging that the Respondent engaged in interrogation, threats, and other activities which interfered with the election.

On September 1, 1982, a hearing was held on objections and several witnesses testified. One of the witnesses who testified was the alleged discriminatee in this case, Julie Kinsey. The Respondent stipulated during the trial of the instant case before me that Kinsey's testimony was adverse to the Respondent's position at the hearing on objections. The hearing officer ordered a new election which decision the Board affirmed.

On November 19, 1982, a certified letter was sent to the Respondent advising it that a second election had been ordered. This letter was received at the Respondent's facility on November 20, 1982. The second election

¹ The General Counsel's motion to correct transcript, which is unopposed by the Respondent, is hereby granted.

was held December 17, 1982, and was won by the Union. Following this second election the Respondent recognized the Union as the exclusive bargaining agent for its service and maintenance employees and has bargained with the Union.

The allegations of unfair labor practices involve several allegations of violations of Section 8(a)(1) by the Respondent's owner and administrator, Virgil Kalchthaler, and by its director of nursing, Eileen Zarling. These violations are alleged to have occurred during the union campaign and prior to the first election. In addition, it is alleged that Section 8(a)(1), (3), and (4) were violated by the Respondent when it refused to permit employee Julie Kinsey to rescind her resignation. This refusal, according to the General Counsel, was because Kinsey supported the Union and testified against the Respondent's interest at the hearing on objections. I will treat the alleged violations separately.

A. The 8(a)(1) Violations

It is alleged that the Respondent's owner and administrator, Virgil Kalchthaler, violated Section 8(a)(1) on July 28, 1982, when he gave a speech to the Respondent's employees 2 days before the election, which speech contained the following language:

If anyone feels uncomfortable about working where there is no union, the solution is easy. Go and get a job at a facility that has a union. You don't have to drive everyone here at Heritage in on your union ideas.

It is uncontested that Kalchthaler spoke these words since a transcribed copy of Kalchthaler's speech, which is 8 pages in length, was put into the record. The speech was delivered four times in order to reach as many eligible voters as possible and was delivered 2 days before the first election, which the Union lost. The entire speech is in the record and Kalchthaler made it abundantly clear that the Respondent was vigorously opposed to the Union. The language, in other words, is not taken out of context.

The cases cited by the General Counsel clearly demonstrate that the quoted language constitutes a threat in violation of Section 8(a)(1) since it conveys the message that support for the Union and continued employment by the Respondent are incompatible. This type of language, which is a request to quit if you support the Union, has been held to constitute a thinly veiled threat to discharge. See *Rolligon Corp.*, 254 NLRB 22 (1981); *Steinerfilm, Inc.*, 255 NLRB 769 (1981), *enfd.* in relevant part 669 F.2d 845 (1st Cir. 1982); *Sans Souci Restaurant*, 235 NLRB 604, 606 (1978).

Accordingly, I find that the above-quoted portion of Kalchthaler's speech to all eligible voters 2 days before the election violated Section 8(a)(1) of the Act.

It is alleged that Director of Nursing Eileen Zarling violated Section 8(a)(1) on several occasions when she spoke at various times with employees Patricia Juarez, Victoria Lynch, Michelle Kretschmann, and Julie Kinsey. All four women are nursing assistants.

On or about July 28, 1982, 2 days before the first election, Patricia Juarez (she was then known as Patricia Stroebel but has since gotten married and taken her husband's name) went on a break to the nurses aides' lounge where she observed Director of Nursing Zarling and nursing assistant Barbara Benirschke talking about the Union. Benirschke was not called as a witness by either side. According to Juarez she interrupted the conversation between Zarling and Benirschke when she overheard Zarling tell Benirschke that if the Union got in the employees would lose their "PTO." "PTO" was a paid time-off program instituted by the Respondent for its employees about 1 month before the July 30 election. Juarez told Zarling that if a majority of the employees liked the PTO policy they could keep it. Zarling disagreed and went on to Juarez that the employees would lose the PTO program if the Union got in, that Kalchthaler, the owner/administrator of the Respondent, would not negotiate with the Union, and that if Juarez thought things were so bad at the Respondent's facility without a union that she should find another job where they had a union.

Zarling admitted that Juarez interrupted her conversation with Benirschke by yelling out "That's not right" at something Zarling was telling Benirschke but she could not remember exactly what she was saying. She admits that she then engaged in a discussion with Juarez. She denies saying that Kalchthaler would refuse to negotiate with the Union but admitted that she said to Juarez, "Pat, if you think the Union's so good, why don't you quit here and go someplace where they have a union?" As noted above, this type of statement to Juarez constitutes a threat in violation of Section 8(a)(1) of the Act since she as director of nursing and a member of the management team for the upcoming election was telling an employee that union support and continued employment with the Respondent were incompatible. See *Rolligon Corp.*, *supra*; *Steinerfilm, Inc.*, *supra*; *San Souci Restaurant*, *supra*.

On or about July 16, 1982, 2 weeks before the election, employee Victoria Lynch, another nursing assistant, and Zarling had a conversation. Lynch did not testify before me because she was sick but her testimony at the hearing on objections was introduced into evidence by the General Counsel without objection from the Respondent. According to Lynch, she and Zarling had a conversation in the dining room at the Respondent's facility during which Zarling asked her why she wanted a union and proceeded to tell her that if the Union got in the employees would lose the PTO policy and all other benefits and start from scratch. According to Lynch, when she questioned this, Zarling reiterated that all benefits including PTO would be lost if the Union got in because negotiations would have to start from scratch. Again according to Lynch, Zarling started the conversation with the question, "Why do you want a union?"

Zarling denied that she said that all the employees would lose the PTO policies or any other benefits if the Union got in. She denied using the words "start from scratch" to Lynch or any other employee and states that she said to Lynch and to all other employees to whom

she spoke about the Union that "everything has to be bargained for, nothing is guaranteed, everything has to be negotiated." Zarling conceded, however, that she may have asked Lynch why she wanted a union in the context of saying to her, "What kind of working conditions are here that you think we need to have a union?"

As noted above, Lynch did not testify before me and I have no way therefore of assessing her credibility in terms of demeanor. Accordingly, since I find other violations of the Act on the Respondent's part I will not find a violation of the Act based on Lynch's testimony where it is not corroborated by Zarling. However, it is clear from the record that Zarling asked Lynch why she wanted a union in the context of Zarling trying to persuade Lynch not to vote for the Union. This constitutes unlawful interrogation in violation of Section 8(a)(1) of the Act. See *Colson Equipment, Inc.*, 257 NLRB 78, 79-80 (1981); *Raley's, Inc.*, 256 NLRB 946, 954 (1981); *Swanson-Nunn Electric Co.*, 256 NLRB 840 (1981).

On July 29, 1982, 1 day before the first election, Zarling had a conversation with nursing assistant Michelle Kretschmann in the dining room at the Respondent's facility. Zarling started the conversation and according to Kretschmann Zarling asked her how she liked the PTO policy and other benefits at Heritage. Zarling asked if Kretschmann had any questions concerning the Union. Kretschmann asked Zarling what would happen if the Union got in and according to Kretschmann Zarling replied, "Well, that we'd lose everything and we'd have to start from scratch again if we got the union in."

Zarling admitted having a conversation with Kretschmann on July 29, 1982, but claimed that in response to Kretschmann's question of what would happen if the Union got in she answered that "it was a matter of everything has to be bargained for and negotiated and nothing is guaranteed. I don't know what the outcome would be as far as benefits." Zarling denied that she ever said to Kretschmann that they would "lose everything" if the Union got in.

On July 14, 1982, Zarling had a conversation with nursing assistant Julie Kinsey. According to Kinsey, Zarling approached her and asked to speak with her for a few minutes. They went into the office of the personnel director. Zarling told Kinsey that some employees were trying to get a union and asked if Kinsey had any questions she wanted to ask. Zarling presented Kinsey with a true and false questionnaire regarding the salaries of union officials, dues, and other issues. According to Kinsey, Zarling said that if the Union got in "we would lose our PTO, our sick reserve day, and we would lose everything and we'd have to start from scratch."

Zarling admitted that she initiated the conversation with Kinsey on July 14, 1982, that it took place in the personnel director's office but she did not remember exactly what was said. She denies, however, that she ever said that the employees would lose their benefits and claims that if asked about benefits she would have answered that question as she always did; namely, "Everything has to be bargained for. Everything has to be negotiated. Nothing is guaranteed."

I credit the testimony of Juarez, Kretschmann, and Kinsey that Zarling threatened a loss of benefits if the

Union got in over Zarling's denial that she said this to them. I note that Juarez and Kretschmann are still employees of the Respondent and this is a factor that adds to their credibility since they are likely to be telling the truth since their testimony is in a sense contrary to their economic interests. See *Unarco Industries, Inc.*, 197 NLRB 489, 491 (1972); *Gateway Transportation Co.*, 193 NLRB 47, 48 fn. 12 (1971). Kinsey, of course, is no longer an employee of the Respondent but her testimony on the 8(a)(1) violation by Zarling was first made under oath and on the record at the hearing on objections on September 1, 1982, at a time when Kinsey was still an employee of the Respondent. All three women testified candidly in connection with their conversations with Zarling and I was impressed with their demeanor. Zarling herself corroborated much of what the three women testified to, e.g., that they did discuss the subject of benefits and when and where the discussions took place. Zarling could not remember exactly what was said in these conversations but even what was referred to as her "canned" reply to questions about benefits would likely lead these young women (all of whom appeared to be in their twenties) to believe that Zarling was saying that the benefits would be lost if the Union got in.

I credit the testimony of Kretschmann and Kinsey that Zarling said to them that if the Union got in then "you would start from scratch." The clear implication of this language in the context of when and where it was said, i.e., the Respondent's facility shortly before the election, could only lead to the conclusion that employees will lose existing benefits if they select a union. This is an unlawful threat in violation of Section 8(a)(1). See *Belcher Towing Co.*, 265 NLRB 1258 (1982).

In conclusion, the Respondent violated Section 8(a)(1) of the Act when Kalchthaler threatened employees on July 28, 1982, in his speech 2 days before the first election and when Zarling unlawfully interrogated Lynch about why she wanted a union on July 16, 1982, and threatened Juarez, Kretschmann, and Kinsey on July 28, 29, and 14, 1982, respectively with loss of benefits if they selected a union.

B. The 8(a)(3) and (4) Violation

On Wednesday, November 17, 1982, nursing assistant Julie Kinsey went to the office of Personnel Director Anne Tritz and told Tritz that she wanted to resign effective November 26, 1982, from the Respondent's employ. Kinsey said that she was leaving because she and her boyfriend with whom she had been living were breaking up and she was moving to another town (Manasha 50 miles away) where she had found a job. Kinsey was visibly upset when she met with Tritz and was crying. Kinsey had a good record as an employee at Heritage Nursing Home as evidenced by employee performance development appraisal forms introduced into evidence at the hearing and by the testimony of Personnel Director Tritz and Director of Nursing Zarling. Zarling at the hearing before me referred to Kinsey as "a very good nursing assistant." Tritz tried to talk the distraught Kinsey out of resigning, even suggesting she move in with one of her coworkers who lived nearby

but Kinsey persisted in her desire to resign. Tritz then asked Kinsey to put her resignation in writing which Kinsey did. Kinsey claims, and I believe her, that Tritz told her that she could tear up her resignation at any time if she wanted to. Tritz denies this and claims that she only told Kinsey she could tear up her resignation immediately after she wrote it out but once she left the office she could not tear it up.²

After submitting her resignation a coworker did offer to Kinsey the option of staying with her for a while in Plymouth where the nursing home is located.

On Saturday, November 20, 1982, Kinsey was advised that her job in Manasha, the city to which she was moving, had fallen through. The lady for whom Kinsey was to be a home-duty nurse had died.

On Monday, November 22, 1982, Kinsey called Tritz on the phone and asked if her offer to tear up her resignation was still good as she wanted to continue in the Respondent's employ. Tritz said she was starting on the work schedule and could Kinsey meet with her the next day before work. On Tuesday, November 23, 1983, Kinsey met with Tritz and told her she wanted to tear up her resignation and stay with the Respondent. Tritz told her she could not do it—that she had resigned and that was it. Kinsey asked if she could possibly postpone her resignation and Tritz said no.

According to Tritz, Kinsey submitted her written resignation after Tritz tried to talk her out of it because Kinsey was a good nursing assistant and upset. Tritz said she then informed Kalchthaler and Zaring, the owner/administrator and director of nursing, respectively, of Kinsey's resignation and they expressed no opinion concerning it one way or the other. On November 22, 1982, Tritz received a phone call from Kinsey who asked if she could still tear up her resignation because she wanted to extend her employment for a few weeks. Tritz told her no she could not postpone the effective date of her resignation; she had resigned and that was it and furthermore she had posted a notice for Kinsey's job and someone had expressed an interest in the position.

The record reflects that Tritz had posted a notice announcing that Kinsey's position on the second shift was opening up but that the notice, which took 1 minute to prepare, had been up for about 1 hour and no one had indicated an interest in the job during that 1-hour period prior to Kinsey's call asking to tear up the resignation. The record further reflects that some weeks before another nursing assistant, Linda Knutson, had mentioned to Tritz that she was interested in shifting to second shift. Knutson formally applied for and got Kinsey's job on November 26, 1982, some 4 days after Kinsey tried to rescind her resignation, and she did not change hours until December 13, 1982.

² Tritz and Kinsey agree that Tritz said Kinsey could tear up her resignation. Since the last thing Kinsey did before leaving Tritz' office was to write out her resignation, and offer to "tear it up" could only be reasonably understood to mean she could tear it up at a future date and not that she could tear up the resignation right then and there or not at all. While Tritz may not have used the specific words "at any time," the clear implication of what she said was that Kinsey could tear up her resignation anytime before she left the Respondent's employ.

Tritz told Kinsey on November 22, 1982, that she was working on the schedule for December but prior to Kinsey's call Tritz had not completed the schedule, posted it, or notified a single nursing assistant that their hours would be different as a result of Kinsey's resignation. Knutson's position became open when she moved to Kinsey's position, but it was not announced until November 29, 1982, and was filled thereafter.

It is the contention of the General Counsel that the Respondent's refusal to permit Kinsey to rescind her resignation was in retaliation for Kinsey's support of the Union and because Kinsey had testified against the Respondent at the hearing on objections on September 1, 1982. The evidence at the hearing reflected that the resignation was handed in on November 17, 1982, and Tritz tried to talk Kinsey out of resigning and then on November 22 or 23 depending on whose testimony is credited—Kinsey or Tritz and I credit Kinsey—Kinsey was told she could rescind her resignation. What happened between those dates is the following: (1) Tritz, who tried to talk a distraught Kinsey out of resigning, told Kalchthaler about her resignation, on November 17; (2) the Respondent received on November 20 notice from the NLRB that the objections to the first election had been sustained and a second election had been ordered; (3) Kinsey tried to rescind her resignation on November 22 and Tritz told Kalchthaler that Kinsey wanted to rescind her resignation; and (5) on November 23 Tritz told Kinsey she could not rescind her resignation.

It is clear to me, since I credit Kinsey's testimony based on her demeanor and reasonableness of her testimony, that the Respondent, through its agents, refused to let Kinsey rescind her resignation because of her support for the Union and her testimony against the Respondent at the hearing on objections which had resulted in a second election being ordered by the Board. A second election that promised to be very close.

It simply defies logic to assume that Kinsey was denied the right to rescind her resignation because of the reasons advanced by the Respondent. Although Kalchthaler denied it, I find that when he learned from Tritz that Kinsey wanted to rescind her resignation he directed Tritz not to let her do it. I credit Kinsey's testimony that she wanted to continue her employment with the Respondent as it was and only when told by Tritz that she could not do this did she then ask to stay on a few more weeks.

Uncontradicted evidence at the hearing disclosed that Kinsey remained unemployed from November 26, 1982, until February 15, 1983, when she found a position as a home-duty nurse corroborating that Kinsey asked to stay on rather than simply postpone leaving for a few weeks. If Kinsey had merely expressed the desire to Tritz of postponing the effective date of her resignation rather than ripping up the resignation, she would not have said to Tritz on November 22, 1982, that she wanted to "tear up her resignation" as Tritz conceded Kinsey said but would have asked to change the effective date of the resignation.

The record reflects that on only one occasion has an employee at the Respondent's facility ever attempted to

rescind a resignation and that was nursing assistant Joan Meves who had given 3 weeks' notice in June 1980 and on what was supposed to be her last day of work asked to rescind her resignation. She was permitted to do so. As far as the record reflects it was the then director of nursing (not Zarling) who permitted her to rescind the resignation.

The law is clear that if the refusal to permit an employee to rescind a resignation is unlawfully motivated that it is a violation of the Act. See *Sycor, Inc.*, 223 NLRB 1091 (1976); *Taft Broadcasting Co.*, 238 NLRB 588, 591-593 (1978), *enfd.* in relevant part 652 F.2d 603 (6th Cir. 1980); *U.O.P., Inc.*, 235 NLRB 621 (1978).

In light of the facts in this case I am forced to conclude that Kinsey was refused permission to rescind her resignation because her testimony at the hearing on objections helped to set aside the first election which the Union lost and Kinsey appeared to be a sure vote in favor of the Union at the second election which promised to be close. This action by the Respondent violated Section 8(a)(1), (3), and (4) of the Act.

CONCLUSIONS OF LAW

1. Heritage Nursing Homes Inc. is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

2. United Food and Commercial Workers Union, Local 214, Chartered by the United Food and Commercial Workers, AFL-CIO, is a labor organization within the meaning of Section 2(5) of the Act.

3. By interrogating employee Vicki Lynch on or about July 16, 1982, regarding her feelings about the Union, the Respondent violated Section 8(a)(1) of the Act.

4. By threatening employees Julie Kinsey, Patricia Juarez, and Michelle Kretschmann in July 1982 with loss of benefits if they selected the Union as their collective-bargaining representative, the Respondent violated Section 8(a)(1) of the Act.

5. By inviting employees on July 28, 1982, to seek employment elsewhere if they wanted a union, the Respondent violated Section 8(a)(1) of the Act.

6. By refusing on November 23, 1982, to permit employee Julie Kinsey to revoke her resignation before its November 26, 1982 effective date and continue her employment with the Respondent because of her union sympathies and activities and because she testified against the Respondent in a hearing on objections on September 1, 1982, the Respondent violated Section 8(a)(1), (3), and (4) of the Act.

7. The unfair labor practices of the Respondent, described above, affect commerce within the meaning of Section 2(6) and (7) of the Act.

THE REMEDY

Having found that Heritage Nursing Homes, Inc. engaged in unfair labor practices within the meaning of Section 8(a)(1), (3), and (4) of the Act, I shall recommend that they be ordered to cease and desist therefrom and take certain affirmative action designed to effectuate the policies of the Act.

Having found that the Respondent unlawfully refused to allow Julie Kinsey to rescind her resignation and con-

tinue her employment, it will be recommended that she be offered immediate and full reinstatement to her former position, without prejudice to her seniority or other rights and privileges. It will also be recommended that the Respondent be ordered to make her whole for any loss of earnings she may have suffered by reason of the discrimination against her by paying her a sum of money equal to the amount she would have normally earned as wages from November 26, 1982, to date, less net earnings, with backpay and interest thereon computed in a manner prescribed in *F. W. Woolworth Co.*, 90 NLRB 289 (1950), and *Florida Steel Corp.*, 231 NLRB 651 (1977).³

I shall further recommend that the Respondent be required to preserve and make available to Board agents, on request, all pertinent records and data necessary to analyze and determine whatever backpay may be due Julie Kinsey.

On these findings of fact and conclusions of law and on the entire record in this proceeding, I issue the following recommended⁴

ORDER

The Respondent, Heritage Nursing Homes, Inc., Sheboygan, Wisconsin, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Interrogating employees about their union sympathies and activities.

(b) Threatening employees with loss of benefits if they support a union.

(c) Threatening employees by inviting them to seek work elsewhere if they want to be represented by a union.

(d) Discriminating against employees with regard to employment because they support a union or testify against the Respondent in a proceeding before the National Labor Relations Board.

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

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Offer Julie Kinsey immediate reinstatement to her former position or, if that job no longer exists, to a substantially equivalent job without prejudice to her seniority and other rights and privileges, and make her whole for any lost earnings in the manner set forth in the section of this Decision entitled "The Remedy."

(b) Preserve and, on request, make available to the Board or its agents for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to analyze the amount of backpay due under the terms of this Order.

³ See generally *Isis Plumbing Co.*, 138 NLRB 716 (1962).

⁴ If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

(c) Post at its Sheboygan, Wisconsin facility copies of the attached notice marked "Appendix."⁵ Copies of the notice, on forms provided by the Regional Director for Region 30, after being signed by the Respondent's authorized agent, shall be posted in conspicuous places at its Sheboygan, Wisconsin nursing home, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

(d) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

⁵ If 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."

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

Section 7 of the Act gives employees these rights.

To organize
To form, join, or assist any union

To bargain collectively through representatives of their own choice

To act together for other mutual aid or protection

To choose not to engage in any of these protected concerted activities.

In recognition of these rights, we hereby notify you that:

WE WILL NOT interrogate employees regarding their union sympathies and activities.

WE WILL NOT threaten employees with loss of benefits if they select a union as their collective-bargaining representative.

WE WILL NOT tell employees who support a union to seek employment elsewhere where employees are represented by a union.

WE WILL NOT discriminate against any employees with regard to terms of employment because they support a union or testify against us in a National Labor Relations Board proceeding.

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

WE WILL offer Julie Kinsey reinstatement to her former position, or, if that position no longer exists, to a position substantially equivalent to her former position, without prejudice to her seniority or other rights and privileges.

WE WILL make Julie Kinsey whole for any loss of pay she may have suffered as a result of the discrimination against her together with interest.

HERITAGE NURSING HOMES, INC.