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**Royal Paper Stock Company, Inc. and General Drivers, Warehousemen and Helpers Local 89, affiliated with the International Brotherhood of Teamsters, AFL-CIO, Petitioner.** Case 9-RC-17605

December 31, 2003

DECISION AND ORDER

BY CHAIRMAN BATTISTA AND MEMBERS LIEBMAN  
AND SCHAUMBER

The National Labor Relations Board, by a three-member panel, has considered the Employer's determinative challenge to the ballot of Joann Cornett in an election held on January 11, 2002, and the hearing officer's report recommending disposition of it. The election was conducted pursuant to a Stipulated Election Agreement. The tally of ballots showed 2 for and 2 against the Petitioner with 1 challenged ballot.

The Board has reviewed the hearing officer's report, the Employer's exceptions and brief,<sup>1</sup> and the Union's

<sup>1</sup> The Employer filed a motion for reconsideration of excluded evidence. We find it unnecessary to pass on whether, as argued by the Employer, the hearing officer should have included certain evidence as a business record pursuant to Rule 803(6) of the Federal Rules of Evidence. Accounts Payable Bookkeeper Debbie Rollins testified that the evidence at issue was a list of employees' names, social security numbers, telephone numbers, and dates of birth, which Rollins kept for herself so as expedite certain tasks by obviating the necessity to pull and check personnel files. Rollins further testified that she had no copies of prior lists but only a current one, because she did not keep copies of what was essentially a running document. Under these circumstances, the evidence at issue is not relevant. It reflects the payroll as of the date of the hearing in this case (January 30, 2002). Thus, the evidence would show, at most, that Cornett was not carried as an employee on January 30. It would not show the circumstances of Cornett's separation from employment or, more importantly, the date on which that separation occurred. It would therefore not be relevant to the point for which it was proffered.

answering brief, and has adopted the hearing officer's findings and recommendations.<sup>2</sup> Accordingly, we shall overrule the challenge to Joann Cornett's ballot and direct that it be opened and counted.

ORDER

IT IS ORDERED that this proceeding is remanded to the Regional Director for further appropriate action.

Dated, Washington, D.C. December 31, 2003

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Robert J. Battista, Chairman

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Peter C. Schaumber, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

MEMBER LIEBMAN, concurring.

Without the apparent reluctance of my colleagues, I apply the Board's well established bright-line rule reaffirmed in *Red Arrow Freight Lines*, 278 NLRB 965 (1986), to decide this case. I therefore agree to adopt the hearing officer's recommendation to overrule the challenge to Joann Cornett's ballot. *Red Arrow* itself is based on case law now 50 years old. I see no expiration date on that precedent.

Dated, Washington, D.C. December 31, 2003

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Wilma B. Liebman, Member

NATIONAL LABOR RELATIONS BOARD

<sup>2</sup> The hearing officer found that Cornett was eligible to vote pursuant to *Red Arrow Freight Lines*, 278 NLRB 965 (1986). No party has urged that the Board reconsider this precedent, and we have therefore applied it.