

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
Eighteenth Region

GUNDERSEN LUTHERAN, INC.¹

Employer

and

SERVICE EMPLOYEES INTERNATIONAL
UNION LOCAL 150, AFL-CIO, CLC

Petitioner

Case 18-RC-16547
(formerly 30-RC-6154)

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Act.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.²

¹ The name of the Employer appears as amended at the hearing.

² Following receipt of Petitioner's Statement of Position in Support of Direction of Election by Mail Ballot, the Employer filed a Motion to Strike or Alternatively Motion to Reopen. The Employer contends that an affidavit attached to Petitioner's Statement of Position is an improper effort by Petitioner to supplement a closed record. The affidavit is from Petitioner's organizer, Shelly Hagglund. As the hearing officer made clear to the parties during the hearing, and as stated herein, the method of election is not a proper subject for litigation. Therefore, I do not even consider the parties' Statements of Position in support of either an on-site or mail-ballot election to be part of the record herein. Rather, the Statements, and any material attached to the Statements, are solely for

2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.³

3. The labor organization involved claims to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. The unit appears as agreed to by the parties.⁴ The only issue is whether a mail-ballot election is appropriate. The Employer opposes a mail-ballot election and contends that only an on-site election is proper. Petitioner contends that only a mail-ballot election would be appropriate. As the method of election is not a proper subject for litigation, but rather is better left to the discretion of the Regional Director, it is unnecessary to resolve this issue at this time. (Cf. Halliburton Services, 265 NLRB 1154 (1982); Manchester Knitted Fashions, Inc., 108 NLRB 1366 (1954).)

the purpose of aiding me in making an administrative determination of how best to conduct the election. Thus, the Employer's Motion to Strike or Alternatively Motion to Reopen is denied, but only because I do not consider anything the parties have submitted following the hearing to be part of the record herein.

³ The Employer, Gundersen Lutheran, Inc., is a Wisconsin non-profit corporation with principal affiliates Gundersen Clinic Limited and Gundersen Lutheran Medical Center, Inc., FKA Lutheran Hospital La Crosse, Inc., which are both non-profit corporations. The Employer's principal office and place of business is located in La Crosse, Wisconsin. The Employer, including its affiliates, is engaged in providing in-patient and out-patient health care services to patients residing in southeastern Minnesota, northeastern Iowa, and western Wisconsin. During the last 12 months, a representative period, the Employer derived gross revenues in excess of \$250,000 and purchased goods and services valued in excess of \$50,000 from entities located directly outside the State of Wisconsin.

⁴ Contrary to the Employer, Petitioner contends that care coordinators should be excluded from the unit because, in Petitioner's view, they are supervisors within the meaning of Section 2(11) of the Act. The parties agreed, however, that care coordinators should vote pursuant to the Board's challenged ballot procedure.

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

All RN's, including full-time, part-time and on-call RN's employed by the Employer at its La Crosse Hospital, La Crosse Clinic and Onalaska Clinic; excluding the Administrative Director, Clinical Director, Clinical Manager, CCU Management Team members, guards and supervisors as defined in the Act, as amended.

DIRECTION OF ELECTION⁵

An election by secret ballot will be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the Notice of Election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit who were employed during the payroll period ending immediately preceding the date below, including employees who did not work during that period because they were ill, on vacation or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period, and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are persons who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in

⁵ Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 - 14th Street, N.W., Washington, D.C. 20570. This request must be received by the Board in Washington by **November 5, 1999**.

an economic strike which commenced more than 12 months before the election date and who have been permanently replaced.⁶

Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by Service Employees International Union Local 150, AFL-CIO, CLC.

Signed at Minneapolis, Minnesota, this 22nd day of October, 1999.

/s/ Ronald M. Sharp

Ronald M. Sharp, Regional Director
Eighteenth Region
National Labor Relations Board

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⁶ To ensure that all eligible voters have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses that may be used to communicate with them. Excelsior Underwear Inc., 156 NLRB 1236 (1966); NLRB v. Wyman-Gordon Co., 394 U.S. 759 (1969). Accordingly, it is directed that two copies of an election eligibility list containing the full names and addresses of all the eligible voters must be filed by the Employer with the Regional Director within seven (7) days of the date of this Decision and Direction of Election. North Macon Health Care Facility, 315 NLRB 359 (1994). The Regional Director shall make the list available to all parties to the election. In order to be timely filed, this list must be received in the Minneapolis Regional Office, Suite 790, Towle Building, 330 Second Avenue South, Minneapolis, MN 55401-2221, on or before **October 29, 1999**. No extension of time to file this list may be granted by the Regional Director except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the filing of such list. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed.