

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 9

In the Matter of

KRISPY KREME DOUGHNUT CORPORATION ^{1/}

Employer

and

Case 9-RC-17244

TEAMSTERS LOCAL UNION NO. 413,
AFFILIATED WITH THE INTERNATIONAL
BROTHERHOOD OF TEAMSTERS

Petitioner

DECISION AND DIRECTION OF ELECTION

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

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 ^{2/}, the undersigned finds:

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

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.

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

^{1/} The name of the Employer appears as amended at the hearing.

^{2/} Although given an opportunity to do so, the Petitioner declined to file a brief. The Employer timely filed a brief which I have carefully considered in reaching my decision.

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 Employer, a corporation, is engaged in the manufacture of doughnuts and pastries at its Columbus, Ohio facility, where it employs approximately 45 employees in the unit found appropriate. There is no history of collective bargaining affecting any of the employees involved in this proceeding.

The parties stipulated, and I find, that the following employees constitute a unit appropriate for the purposes of collective bargaining:

All full-time and regular part-time depot delivery employees, depot packer/processors and product specialists employed by the Employer at its Columbus, Ohio facility, excluding all office depot clerks and all professional employees, guards and supervisors as defined in the Act.

Accordingly, I shall direct an election among the employees in such unit.

The parties stipulated, the record reflects and I find that the following individuals have the authority to hire, discharge or discipline employees or to effectively recommend such action or to assign and direct their work in a manner requiring the use of independent judgment and are supervisors within the meaning of Section 2(11) of the Act: Gayle Kirkham, depot supervisor; Wolfgang Lawrenz, general manager; Clarence Underhill, assistant manager; Lee Carnes, assistant manager; James Lewis, depot supervisor; Kevin Quist, route supervisor; Carl Edholm, route supervisor; and Lisa Whaley, route supervisor. Accordingly, I shall exclude them from the unit.

In further agreement with the stipulation of the parties, I shall exclude Deborah Hathaway, Amy Knott, Nora Roush and Tara Ruffing from the unit as office depot clerks.

DIRECTION OF ELECTION

An election by secret ballot shall 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 of this Decision, 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 employees 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 an

economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by **Teamsters Local Union No. 413, affiliated with the International Brotherhood of Teamsters.**

LIST OF ELIGIBLE VOTERS

In order to insure that all eligible voters may 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 using full names, not initials, and their addresses which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969); *North Macon Health Care Facility*, 315 NLRB No. 359 (1994). Accordingly, it is hereby directed that within 7 days of the date of this Decision **2** copies of an election eligibility list, containing the full names and addresses of all the eligible voters, shall be filed by the Employer with the undersigned who shall make the list available to all parties to the election. In order to be timely filed, such list must be received in Region 9, National Labor Relations Board, 3003 John Weld Peck Federal Building, 550 Main Street, Cincinnati, Ohio 45202-3271, on or before **May 11, 1999**. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

RIGHT TO REQUEST REVIEW

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 **May 18, 1999**.

Dated at Cincinnati, Ohio this 4th day of May 1999.

/s/ Richard L. Ahearn

Richard L. Ahearn, Regional Director
Region 9, National Labor Relations Board
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