

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 32**

(Reno, Nevada)

AMERICAN HOTEL REGISTER COMPANY

Employer

and

Case 32-RC-4721

**TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN
& HELPERS AND PROFESSIONAL, CLERICAL,
PUBLIC AND MISCELLANEOUS EMPLOYEES
LOCAL UNION NO. 533 OF DONNER & THE
TAHOE BASIN, RENO AND NORTHERN NEVADA,
INTERNATIONAL BROTHERHOOD OF TEAMSTERS,
AFL-CIO**

Petitioner¹

DECISION AND ORDER

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 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 parties stipulated and I find, that the Employer is engaged in commerce within the meaning of the Act and, accordingly, the assertion of jurisdiction is appropriate herein.

3. The parties stipulated and I find that the Petitioner is a labor organization within the meaning of Section 2(5) of the Act.

¹ Petitioner's name appears as stipulated to at the hearing.

² The parties waived the filing of post-hearing briefs.

4. No question affecting representation exists within the meaning of Section 9(c)(1) of the Act, for the reasons discussed below.

5. The Petitioner seeks to represent a group of warehouse employees employed at the Employer's Reno, Nevada distribution center in the classifications of pickers, shippers, receivers, forklift and lift truck operators.³ The Employer contends that the petition should be dismissed on the basis that the closure of its Reno facility and the layoff of all employees are imminent.

The Employer is 135 years old and is the largest independent supplier in the hospitality industry employing more than 800 employees nationwide. The Employer's Reno facility is one of seven distribution centers it operates throughout the country and is one of the smaller facilities at about 40,000 square feet.⁴ At its distribution centers, the Employer receives products, stores the goods, ships goods to customers and processes returned goods. These centers service government entities, the hospitality industry as well as other institutions. The Employer sells 36,000 different items including both soft goods such as towels and linens and amenities such as soap and cleaners. The centers do not stock all of the Employer's products; in fact, the largest center stocks only 16,000 different products. The Reno facility stocks only a small segment of the items that the Employer sells.

In recent years, the Employer has experienced rapid and sustained growth which led it to reevaluate its distribution network. As part of this process it decided that it needed a larger center on the West Coast with a broader product base in order to better handle the growing volume of customers in that area. As a result, sometime in mid-1999, the Employer decided to open a large distribution center in Southern California in the Ontario area. The Employer believed that once this new center was opened, it would realize a large savings on shipping costs, since many items sold to customers on the West Coast are currently shipped from its Vernon Hills and other very distant distribution centers because the closer centers such as Reno and Las Vegas, Nevada are small and do not stock many items of the Employer's product line.

In about October of 1999, Tom Leahy, a vice-president and one of the Employer's owners, held an employee meeting at the Reno facility to discuss the impact of the opening of the new California center. He told employees at that meeting that the opening of the California center would have no impact on the Reno center other than causing a temporary drop in shipping volume. (The Reno

³ The Employer currently employs 10 warehouse employees at its Reno distribution center. The Union contends that one of these 10, the warehouse leader, Russ Lane, is a supervisor. Since I have decided to dismiss the petition, I need not resolve this issue.

⁴ The other distribution centers are located in Vernon Hills, Illinois, Lakewood, New Jersey, Groveland, Florida, Carrollton, Texas, Kennishaw, Georgia and Las Vegas, Nevada. The Employer's largest distribution center is in Vernon Hills, Illinois and is about 270,000 square feet.

facility had suffered a similar drop in shipping volume when the Las Vegas center opened in November of 1998 but had by October 1999 fully recovered its level of business.)

After the Employer made the decision to open the California center it began an intensive study of West Coast markets in order to determine the best means of transporting goods into and out of its distribution centers in the area. One of these studies involved the impact of the opening of the Ontario center on the shipping volume out of both the Reno and Las Vegas centers. This study revealed that the Reno facility would suffer about a 90% loss in volume and the Las Vegas center would suffer about a 84% loss as a result of the opening of the Ontario center. After further investigation, the Employer decided in late December 1999 to close the Reno facility but to keep open the Las Vegas center because Las Vegas is a rapidly growing city representing the Employer's largest potential market.

On January 26, 2000, the Employer notified the manager of the Reno facility for the first time that his facility would close as a result of the opening of the Ontario center. The next day the manager announced the closing of the center to employees at an employee meeting. On February 1 or 2, a vice-president of the Employer held individual meetings with the center's employees to explain why the center was closing and to discuss the Employer's severance and relocation policies.

The new Ontario center is presently scheduled to become operational by April 3, 2000 and the Reno center is scheduled to close on April 10, 2000. In preparation for the closing of the Reno center, the Employer is in the process of selecting a firm to market and sell or lease the Reno facility based on two proposals it received in January. Also in anticipation of the April 10 closure, the Employer is not accepting new business for the Reno center; is in the process of cutting off inbound product to the building and is beginning to transfer goods out of the building to other centers. The Employer will continue to serve customers from the Reno center for a time in order to deplete the center's inventory as much as possible prior to the closure. The Employer's goal is to have all of the center's remaining inventory transferred out prior to April 10.

The Board has long held that it will not conduct an election at a time when a permanent layoff is imminent and certain. *Hughes Aircraft Co.*, 308 NLRB 82, 83 (1992); *Larson Plywood Company*, 223 NLRB 1161 (1976). Here the closure of the Reno distribution center and the layoff of all of its employees is scheduled to take place on April 10 and the employer has already begun to take measures to implement the closure. These measures include informing all employees of the closure and discussing the options available to each as a result of the closure; stopping the acceptance of new business for the facility; cutting off the receipt of inbound product; transferring product to other centers; and soliciting

and receiving proposals from local realtors for the marketing and sale or lease of the Reno facility.

Based on the foregoing and the record as a whole, in view of the imminence and certainty of the Employer's decision to permanently lay off employees in the petitioned-for unit, I have decided to dismiss the petition herein. See *Hughes Aircraft Co.*, supra, *Martin Marietta Aluminum Inc.*, 214 NLRB 646 (1974); *M.B. Kahn Construction Co.*, 210 NLRB 1050 (1974).⁵

ORDER

IT IS HEREBY ORDERED that the petition be, and it hereby is, dismissed.

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, DC 20570. This request must be received by the Board in Washington by March 7, 2000.

Dated at Oakland, California this 22nd day of February, 2000.

/s/ James S. Scott

James S. Scott, Regional Director
National Labor Relations Board
Region 32
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⁵ This Decision and Order is made without prejudice to the Petitioner's right to file a motion to reinstate the instant petition should the Employer's plans change and the Reno facility remain open.