

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

(Oakland and San Francisco, CA)

ARIZONA REFRIGERATION SUPPLIES, INC.

Employer

and

Case 32-RC-4723

TEAMSTERS LOCAL 853 affiliated with
INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, AFL-CIO

Petitioner

DECISION AND DIRECTION OF ELECTION

Upon a petition duly being filed under Section 9(c) of the National Labor Relations Act, as amended, herein called the Act, and 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,¹ the undersigned finds:

1. 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.
2. Petitioner is a labor organization within the meaning of Section 2(5) of the Act.
3. The Petitioner claims to represent certain employees of the Employer, and 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.

¹ The record in this case consists of a stipulation entered into by the parties and approved by the undersigned and briefs subsequently filed by the parties. The parties waived their right to a hearing in this case. Pursuant to the terms of the stipulation the parties agreed that since the issues herein are identical to the issues presented in a prior case involving these parties, Case 32-RC-4520, the instant matter would incorporate the record in that proceeding. Additionally I take administrative notice of the Decision and Direction of Election that issued in that case on October 30, 1998.

4. 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:²

INCLUDED: All full-time and regular part-time warehouse persons/drivers employed by the Employer at its San Francisco and Oakland, California branches.³

EXCLUDED: All other employees, including all counter persons and outside sales persons, professional employees, office clerical employees, guards, and supervisors as defined in the Act.

There are approximately 2 employees in the unit.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the undersigned among the employees in the units 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.⁴ Eligible to vote are those in the unit who are employed during the payroll period ending immediately preceding the date of the 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 Government 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

² The bargaining unit sought by Petitioner in this case is identical to that which I found appropriate in Case 32-RC-4520. The Employer objects herein to the scope of the petitioned-for unit although it does not state a position regarding an appropriate bargaining unit. Since according to the parties' stipulation it is undisputed that the facts concerning the bargaining unit in the instant matter are no different than they were at the time the Decision and Direction of Election issued in Case 32-RC-4520, I reaffirm my earlier finding and rationale therefor, that the petitioned-for unit is appropriate.

³ In its brief the Employer cites Macy's West, Inc., 327 NLRB No. 201 (1999) and Acme Markets, Inc., 328 NLRB No.173 (1999), two recent cases where the Board expanded the scope of the unit(s) initially found appropriate by each Regional Director, respectively. In each of these cases the Board determined that the community of interest of the employees in the narrower unit or units was not distinct from the community of interest they share with the employees in the wider unit. These cases are distinguishable from the instant case in that the employees in the San Francisco and Oakland locations share a distinct community of interest apart from the employees employed in the Employer's Sacramento, Stockton, and Modesto locations in view of the two locations in the sought-for unit being in the same metropolitan area and that there is a history of bargaining jointly for the employees in the San Francisco and Oakland locations.

⁴ Please read the attached notice requiring that election notices be posted at least three (3) days prior to the election.

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 to vote shall vote whether or not they desire to be represented by, TEAMSTER LOCAL 853, affiliated with THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS, AFL-CIO.

LIST OF VOTERS

In order to ensure 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 in the election should have access to a list of voters 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 359, 361 fn. 17 (1994). Accordingly, it is hereby directed that within seven (7) days of the date of this Decision, two (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 the NLRB Region 32 Regional Office, Oakland Federal Building, 1301 Clay Street, Suite 300N, Oakland, California 94612-5211, on or before, April 24, 2000. 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, DC 20570. This request must be received by the Board in Washington by May 1, 2000.

Dated at Oakland, California this 17th day of April, 2000

James S. Scott, Regional Director
National Labor Relations Board
Region 32
1301 Clay Street, Suite 300N
Oakland, California 94612-5211

32-1195

440-1700
440-3301

440-3375-3700