

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 10

OVERNITE TRANSPORTATION COMPANY

Employer

and

Case 10-RD-1381

EUGENE JACOBS, AN INDIVIDUAL

Petitioner

INTERNATIONAL BROTHERHOOD OF
TEAMSTERS¹

Union

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 Board.²

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

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

² Although the Union was served with a copy of the Notice of Hearing it did not appear at the hearing.

Upon the entire record of this case,³ 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 a Virginia corporation with places of business in various states of the United States, including its terminal at Kennesaw, Georgia, the facility involved in this proceeding, where it is engaged in the interstate transportation of commodity freight. During the past calendar year, a representative period, the Employer has received revenues in excess of \$50,000 from the interstate shipment of freight. 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. The labor organization involved was certified as the collective bargaining representative for the unit in question on September 30, 1996, in Case 10-RC-14731. Accordingly, I find that the Union is a labor organization within the meaning of Section 2(5) of the Act.

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. I conclude that the unit sought by the Petitioner, which is co-extensive with the certified unit, is appropriate for the purposes of collective bargaining. Campbell Soup Co., 111 NLRB 234 (1955).

³ The Employer and the Petitioner waived the filing of a brief in this matter. The Union did not file a brief.

In view of the foregoing and the record as a whole, I find that 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 full-time and regular part-time dock workers (including OS&D workers), city drivers, combo drivers, road drivers, and yard workers, employed by the Employer at its Kennesaw, Georgia facility, but excluding all fleet service workers, guards, leads, mangers, office clerical employees, and supervisors, as defined in the Act.

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 set forth in the notice of election to issue 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 the 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 the 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 commencement thereof and who

⁴ Your attention is directed to Section 103.20 of the Board's Rules and Regulations, a copy of which is enclosed. Section 103.20 provides that the Employer must post the Board's official Notice of Election at least three full working days before the election, excluding Saturdays and Sundays, and that its failure to do so shall be grounds for setting aside the election whenever proper and timely objections are filed.

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 they desire to be represented for collective bargaining purposes by International Brotherhood of Teamsters.

LIST OF VOTERS

In order to assure 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 that may be used to communicate with them. Excelsior Underwear, 156 NLRB 1236 (1966); NLRB v. Wyman-Gordon Co., 394 U.S. 759 (1969). Accordingly, it is hereby directed that 2 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 for Region 10 within 7 days of the date of this Decision and Direction of Election. I shall, in turn, make the list available to all parties to the election. North Macon Health Care Facility, 315 NLRB 359, 361 (1994). The list must be of sufficiently large type to be clearly legible. In order to be timely filed, such list must be received in the Regional Office, Harris Tower – Suite 1000, 233 Peachtree Street, N.E., Atlanta, Georgia 30303-1531, on or before August 8, 2002. 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 provision 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, NW, Washington, DC 20570. This request for review must be received by the Board in Washington by August 15, 2002.

Dated at Atlanta, Georgia, on this 1st day of August, 2002.

/s/ Martin M. Arlook
Martin M. Arlook, Regional Director
National Labor Relations Board
233 Peachtree Street, NE
1000 Harris Tower, Peachtree Center
Atlanta, Georgia 30303