

**UNITED STATES GOVERNMENT
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 29**

DEDICATED SERVICES, INC.
Employer

and

LOCAL 1181-1061, AMALGAMATED
TRANSIT UNION, AFL CIO
Petitioner

Case No. 29-RC-11499

and

LOCAL 713, INTERNATIONAL
BROTHERHOOD OF TRADE UNIONS,
INTERNATIONAL UNION OF
JOURNEYMEN AND ALLIED TRADES
Intervenor¹

DECISION AND DIRECTION OF ELECTION

Dedicated Services, Inc. (“the Employer”) provides paratransit services for the New York City Transit Authority. On August 2, 2007, Local 1181-1061, Amalgamated Transit Union, AFL-CIO (“Petitioner”) filed a petition under Section 9(c) of the National Labor Relations Act, seeking to represent a bargaining unit of drivers, mechanics, quality control employees and dispatchers employed out of the Employer’s facility in Richmond Hill, New York. Local 713, International Brotherhood of Trade Unions, International Union of Journeymen and Allied Trades (“Intervenor”) intervened in the case.

¹ Local 713, International Brotherhood of Trade Unions, International Union of Journeymen and Allied Trades’ status as an Intervenor is based on its showing of interest.

The parties agreed on most issues, including the appropriate bargaining unit, the two unions' status as labor organizations, the Employer's commerce information for jurisdictional purposes, and the existence of a question concerning representation. They also agreed to hold an election in a van, to be parked at the corner of 129th Street and 91st Avenue in Richmond Hill. However, the parties could not agree to a date and time for an election.

A "no issue" hearing was held before Annie Hsu, a Hearing Officer of the National Labor Relations Board. Pursuant to Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned Acting Regional Director.

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 hereby are affirmed.
2. The parties stipulated that the Employer is a domestic corporation, with its principal office and place of business located at 89-42 129th Street, Richmond Hill, New York. During the past year, which period represents its annual operations generally, the Employer provided services valued in excess of \$250,000 to the New York City Transit Authority, a governmental entity that meets the Board's direct standard for the assertion of jurisdiction. The Employer also purchased and received at its Richmond Hill facility, goods and materials valued in excess of \$5,000 from suppliers located within the State of New York, which suppliers, in turn, purchased and received said goods and materials directly from points outside the State of New York.

Based on the foregoing, I find that the Employer is engaged in commerce within the meaning of the Act. It will therefore effectuate purposes of the Act to assert jurisdiction in this case.

3. The parties stipulated that the Petitioner and Intervenor are both labor organizations as defined in Section 2(5) of the Act. The Petitioner claims to represent certain employees of the Employer.

4. A question concerning 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 parties stipulated, and I hereby find, that the following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining:

All full-time and regular part-time drivers, mechanics, quality control employees and dispatchers, employed out of the Employer's 89-42 129th Street, Richmond Hill, New York facility, but excluding all guards and supervisors as defined in Section 2(11) the Act.

DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. The employees will vote whether they wish to be represented for purposes of collective bargaining by Local 1181-1061, Amalgamated Transit Union, AFL-CIO (Petitioner), by Local 713, International Brotherhood of Trade Unions, International Union of Journeymen and Allied Trades (Intervenor), or by neither labor organization. The date, time, and place of the election will be specified in the notice of election that the Board's Regional Office will issue subsequent to this Decision.

Voting Eligibility

Eligible to vote in the election are those in the unit who were employed during the payroll period ending immediately before the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such a strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Those in the military services of the United States who are employed in the unit may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

Employer to Submit List of Eligible Voters

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 to 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).

Accordingly, it is hereby directed that within 7 days of the date of this Decision, the Employer must submit to the Regional Office an election eligibility list, containing the full names and addresses of all the eligible voters. North Macon Health Care Facility, 315 NLRB 359, 361 (1994). This list must be of sufficiently large type to be clearly legible. To speed both preliminary checking and the voting process, the names on the list should be alphabetized (overall or by department, etc.). Upon receipt of the list, I will make it available to all parties to the election.

To be timely filed, the list must be received in the Regional Office, Two MetroTech Center, 5th Floor, Brooklyn, New York 11201, on or before **July 1, 2008**. No extension of time to file this list will be granted except in extraordinary circumstances, nor will the filing of a request for review affect the requirement to file this list. Failure to comply with this requirement will be grounds for setting aside the election whenever proper objections are filed. The list may be submitted by facsimile transmission at (718) 330-7579. Since the list will be made available to all parties to the election, please furnish a total of **two** copies, unless the list is submitted by facsimile, in which case no copies need be submitted. If you have any questions, please contact the Regional Office.

Notice of Posting Obligations

According to Section 103.20 of the Board's Rules and Regulations, the Employer must post the Notices to Election provided by the Board in areas conspicuous to potential voters for a minimum of three (3) working days prior to the date of the election. Failure to follow the posting requirement may result in additional litigation if proper objections to the election are filed. Section 103.20(c) requires an employer to notify the Board at

least 5 full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. Club Demonstration Services, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

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. 20570-0001. This request must be received by the Board in Washington by 5 p.m., EST on **July 8, 2008**. The request may **not** be filed by facsimile.

The parties are advised that the National Labor Relations Board has expanded the list of permissible documents that may be electronically filed with its offices. If a party wishes to file the above-described Request for Review electronically, please refer to the guidance which can be found under "E-Gov" on the National Labor Relations Board website: www.nlr.gov.

Dated: June 24, 2008.

"/s/{Larry Singer}"

National Labor Relations Board
Two MetroTech Center, 5th Floor
Brooklyn, New York 11201