Sid Eland, Inc. *and* John Von Wiesel, Petitioner, and General Teamsters Local Union No. 174, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America. Case 19-RD-1650

April 7, 1982

DECISION AND DIRECTION

BY CHAIRMAN VAN DE WATER AND MEMBERS FANNING AND ZIMMERMAN

Pursuant to authority granted it by the National Labor Relations Board under Section 3(b) of the National Labor Relations Act, as amended, a three-member panel has considered objections and determinative challenges to an election held on September 9, 1981,[1] and the Hearing Officer's report recommending disposition of same. The Board has reviewed the record in light of the exceptions and brief and hereby adopts the Hearing Officer's findings and recommendations, as modified below.[2]

With respect to Griffin Hampson, the Hearing Officer recommended that the challenge to his ballot be overruled, finding that Hampson was on layoff or leave-of-absence status at the time of the election with a reasonable expectancy of return. We disagree. The record evidence reveals that the Employer's general manager, Roy Grove, spoke to Hampson in July 1981, at which time Hampson asked for a leave of absence in order to take care of family business in California. Grove testified that Hampson later called him from San Francisco and expressed his interest in a position with the Employer if he returned to the Seattle area. Hampson did in fact return and work for the Employer for 3 days, a fact that is borne out in the Employer's paysheets for the payroll period ending August 28, 1981. Hampson then requested another leave of absence which Grove orally granted. Upon this second grant of a leave of absence, Hampson again returned to California. Grove also testified that at that time he told Hampson that he could come back to work for the Employer if there was a position open. Hampson next showed up at the Employer's facility on September 9, 1981, the day of the election. He voted in the election but was not again on the payroll subsequent to working the 3 days in the August 28 payroll period. On the day of the election, he did not speak to Grove about any continuing possibility of returning to work for the Employer. Grove has not heard from Hampson since he granted him the second leave of absence.

Taken as a whole, the circumstances do not warrant a finding that Hampson had a reasonable expectation of returning to work for the Employer. The Employer's grant of a leave of absence to Hampson was far too open-ended. Hampson gave Grove no idea when he would return, if in fact he ever intended to return. Additionally, we note that, except for a 3-day period in August and the day of the election, there is no evidence that Hampson has returned to the Seattle area from California. We do not find a reasonable expectation that Hampson will return to the Seattle area to work for the Employer. This situation is to be contrasted with those occasions where employees are given leaves of absence for, *inter alia*, reasons of maternity or injury.[3] In those situations, a more definite time frame is established than is present here and there is a much greater chance that the employees will return to the same place of employment. Thus, there exists in those situations, unlike here, a reasonable expectation of return to work.

Accordingly, we sustain the challenge to the ballot of Hampson and find that, at the time of the election, he had no reasonable expectation that he would return to work for the Employer.

DIRECTION

It is hereby directed that the Regional Director for Region 19 shall, within 10 days from the date of this Decision and Direction, open and count the ballots of D. Kirkman, W. Beadle, S. Brothers, H. Robbins, T. Critchett, C. Griffin, W. Dempsey, S. Cadigan, J. Nelson, P. Bishop, D. Comsa, R. Goodwin, A. Strothers, L. Prather, G. Thompson, and J. Von Wiesel.

Thereafter, it is directed that the Regional Director for Region 19 shall prepare and cause to be served on the parties a revised tally of the ballots, including therein the count of such ballots, upon the basis of which he shall issue the appropriate certification.

[1] The election was conducted pursuant to a Stipulation for Certification Upon Consent Election. The tally was: 30 for, and 23 against, the Union; there were 20 challenged ballots, a sufficient number to affect the results.

[2] In the absence of exceptions, we adopt *pro forma* the Hearing Officer's treatment of challenges to eight other voters and to other objections to the conduct of election.

[3] See, e.g., *Cato Show Printing Co., Inc.*, 219 NLRB 739, 754 (1975) (employee Ames), and *Price's Pic-Pac Supermarkets, Inc.*, 256 NLRB 742 (1981) (employee Crum).