UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES
NEW YORK BRANCH OFFICE

BLOOMFIELD HEALTH CARE CENTER

and **CASE NOS. 34-CA-11512**
34-CA-11536
NEW ENGLAND HEALTH CARE **34-CA-11559**
EMPLOYEES UNION, DISTRICT 1199, SEIU **34-CA-11562**
34-CA-11600
34-RC-2172

Jennifer Dease, Esq., Counsel for the General Counsel
Kevin A. Creane, Esq., Counsel for the Union
*John G. Zandy, Es*q., Counsel for the Respondent

DECISION

Statement of the Case

RAYMOND P. GREEN, Administrative Law Judge. I heard this case in Hartford, Connecticut on February 13, 14 and 15, 2007.

A petition for an election was filed by the Union on April 10, 2006. Pursuant to a Stipulated Election Agreement approved by the Regional Director on April 19, 2006, an election was conducted on May 18, 2006. Although a majority of the votes were cast for the Union, the Employer filed Objections to the Election on May 25, 2006 [1] On September 8, 2006, the Regional Director issued a Report on Objections and concluded that a hearing should be held with respect to Objections 1 and 5. These objections allege **(a)** that on the day of the election, employee Winsome Kitson, acting as the observer for the Union, threatened the Respondent's administrator and communicated her threats to eligible voters; and **(b)** that representatives of the Union told eligible voters that the Union would waive union dues for employees who also worked at other facilities represented by the Respondent.

The Board issued a Decision and Order on October 26, 2006 sustaining the Regional Directors findings with respect to the Objections. [2]

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[1] Of approximately 117 eligible voters, the Union received 68 votes while 42 votes were cast against the Union and 7 ballots were challenged. The challenged ballots were therefore not determinative of the outcome of the election.

[2] The Employer withdrew Objections 2, 3 and 4 and the Regional Director found that Objection 6 had no merit.

The charge and amended charge in 34-CA-11512 were filed on May 25 and July 31, 2006. The charge in 34-CA-11536 was filed on June 22, 2006. The charge and amended charge in 34-CA-11559 were filed on July 24 and October 30, 2006. The charge and amended charge in 34-CA-11562 were filed on July 28, and October 30, 2006. The charge and amended charge in 34-CA-11600 were filed on September 22 and October 30, 2006.

The Regional Director issued a Complaint on August 30, 2006 and issued another Consolidated Amended Complaint on October 31, 2006. The latter Complaint, which consolidated all allegations, made the following assertions.

1. That on May 1, 2006, the Respondent, by letter, threatened employees with the loss of hours if they selected the Union.

2. That on or about July 21, 2006, the Respondent, by Penni Martin, **(a)** interrogated employees about their union activities and **(b)** created the impression that their union activities were being kept under surveillance.

3. That in its "Employee Handbook," the Respondent maintained a rule, enforceable by disciplinary action, prohibiting employees from discussing each other's salaries.

4. That on or about May 18 and 19, 2006, the Respondent for discriminatory reasons, denied its employee Winsome Kitson access to its facility and suspended her from employment.

5. That on or about May 18, 2006, a majority of the employees in an appropriate bargaining unit, selected the Union as their collective bargaining representative. The unit consists of the following employees of the Respondent:

> All full-time and regular part time service and maintenance employees, including all certified nursing assistants, rehabilitation aides, dietary aides, recreation aides, cooks, housekeepers, laundry aides, scheduler/supply coordinators, receptionists, and maintenance employees, but excluding all business office clerical employees, department heads, certified therapeutic recreation directors, payroll clerks, and all other employees, and all professional employees, guards and supervisors as defined in the Act.

6. That on or about June 29, 2006, the Respondent unilaterally and without affording the Union an opportunity to bargain, implemented an attendance policy concerning making up weekend shifts.

7. That on or about July 13, 2006, the Respondent unilaterally and without affording the Union an opportunity to bargain, implemented a scheduling and time off policy.

8. That on or about September 18, 2006, the Respondent unilaterally and without affording the Union an opportunity to bargain, eliminated the position of "Rehabilitation Aide" and transferred those duties to the Certified Nursing Assistants.

9. That on or about September 23, 2006, the Respondent unilaterally and without affording the Union an opportunity to bargain, instituted a policy of enforcing its previously unenforced telephone usage policy.

10. That on or about October 1, 2006, the Respondent unilaterally and without affording the Union an opportunity to bargain, changed the work schedules of certain employees.

At the hearing, based on a non-Board Settlement, the Union withdrew and I approved the following allegations:

1. The contention that the rule in the handbook prohibiting employees from talking to each other about their pay and benefits was unlawful. The Company agreed to delete this provision from the employee handbook.

2. The contention that the Company unilaterally implemented an attendance policy concerning making up weekend shifts. The parties agreed that this "change" was not actually implemented and that the Company would maintain the status quo as it existed before the election.

3. The contention that the Company unilaterally instituted a policy of enforcing its previously unenforced telephone usage policy. The evidence showed that after the purported change, the rule continued to be unenforced and the Company agreed to maintain the status quo as it existed before the election.

Based on the evidence as a whole, including my observation of the demeanor of the witnesses and after consideration of the Briefs filed, I hereby make the following findings and conclusions.

Findings and Conclusions

I. Jurisdiction

It is admitted and I find that the Respondent is engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act. It also is admitted that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. Alleged Unfair Labor Practices

a. Background

The Company operates a 120-bed nursing home in Bloomfield, Connecticut. The facility has 4 wings. At the time of the organizing campaign and election, the Administrator was Penni Martin and the Director of Nursing was Carol Mortenson. There were approximately 117 employees in the bargaining unit.

The Union's organizing campaign started sometime in February or March 2006. The campaign was headed up by union representative Malcolm Harris and he was assisted, from time to time, by two other paid union organizers whose names are Suzi Hewitt and Yvonne Beck. Also involved in the campaign, under the direction of Harris, were about 20 employees who by attending union meetings, were described as an organizing committee. According to Harris, the members of the organizing committee were self-selected and they engaged in solicitation and literature distribution activities. He testified that they were not authorized to make policy or to write or determine the kinds of literature given out to employees. This group included Winsome Kitson, who the General Counsel alleges to have been discriminatorily suspended. Others in this group included Avril Wallace, Millicent Jackie Jordan, Fay Richards and Carol Bowen.

Carol Mortenson testified that during conversations that she had with Penni Martin, the latter told her that she was aware that Kitson, Avril Wallace and another employee named Bernadette were very strong union supporters.

On or about April 10, 2006, Wallace and a group of about 20 employees entered the premises where they made a demand for recognition. On that same day, the Union filed a Petition for an Election. As noted above, the parties entered into a Stipulated Election Agreement on April 19, 2006, and an election was conducted on May 18, 2006.

b. The May Memorandum

On May 1, 2006, the Employer issued a memorandum to employees stating that there would be an election on May 18, 2006 and that management believed that union representation would not be in the best interest of the employees. The memorandum noted that within the next few weeks, management would be holding a series of mandatory meetings to discuss union representation and collective bargaining. There is one sentence in this memorandum that the General Counsel alleges to be an illegal threat of reprisal. This states:

> This is a very important issue that will affect each and every staff member. It can affect your status as a per diem employee, the availability of hours and the ability of our managers to use per diem staff to assure adequate staffing.

In my opinion, the memorandum does not rise to the level of a threat of reprisal. In her brief, the General Counsel underlined the first sentence, which states that the election *will* affect each and every staff members. That sentence, constituting a generalized prediction that electing union representation will affect the staff is self evidently true, but non-specific. The second portion of the memorandum merely states that the selection of a union *can* affect per diem employees in terms of their status and hours of work. It does not state how it can affect these employees and doesn't even indicate that a possible affect might be adverse. A statement that the selection of a union can affect terms and conditions of employment is self evident and should reasonably be construed not as a threat that the employer will take a specific adverse course of action, but that negotiations may change the existing hours and terms and conditions of employment for the people encompassed by the negotiations.

c. The Election, the Party and the Suspension of Winsome Kitson

The election was held on Thursday, May 18, (a pay day), and it was held in two sessions. The first session was held from 6:00 a.m. to 8:00 a.m. The second session was held from 2:00 p.m. to 5:00 p.m. At the first session, the Union selected Winsome Kitson, who that day, was off duty, to be its observer. For the afternoon session, commencing at 2:00 p.m., the Union selected Carol Bowen, to be its observer.

Also on May 18, the Employer had previously chosen to have some other events at the facility. One was a wheelchair race held in the lobby area of the facility. The second was a party to which all employees had been invited and which was held from 11 a.m. to about 4 p.m. in the recreation room. (Thus overlapping the afternoon session of the election). The party, described by Martin in her announcement as the "Big Event" was held in a large room that was located between the lobby where employees picked up their paychecks and the dining room where the election was being conducted. It is clear to me that the party was conducted by the Company so as to contain a mild form of electioneering. In this regard, employees were given mugs, plates and cups that contained the phrases, "give Penni a chance," and "Union no."

The Respondent asserts that the reason it suspended Kitson was because she refused to leave the facility when asked to do so by Martin and that she threatened Martin during the transaction.

Martin claims that sometime on the morning of May 18, she thought that the situation at the facility was going to be too chaotic given the election, the party and the wheelchair races. She testified that she therefore decided to disinvite from the party, *all* employees who were not on duty. This ad hoc decision made by Martin, was contrary to existing policies and/or practices that allowed off duty employees to visit the facility and talk to other employees. It also was not communicated to any employees except for employees known by Martin to be union activists. [3] In this regard, the evidence shows that it was not applied to any other employees who attended the party and who were not on duty at the time. Indeed, it is obvious that Martin essentially decided to exclude from this party, (where the Employer was engaged in a form of electioneering), those individuals who Martin knew might try to convince employees to vote in favor of unionization. In effect, Martin decided to exclude Kitson, Richards and Wallace because she thought they might undermine the Respondent's last minute attempt to influence the employees to vote against the Union.

The evidence shows that after obtaining her check from the receptionist in the lobby, Kitson was told that they were giving out mugs to employees in the recreation room. As Kitson proceeded to the room, Martin came up behind her and asked where she was going. When told, Martin informed Kitson that she had to leave because she was not on duty. Kitson ignored her and continued into the recreation room where she got her mug. During that brief period of time, Martin again asked her to leave and Kitson asked Martin why she was harassing her when other off duty employees were in the room and attending the party. Shortly thereafter, Kitson left and went out to the parking lot where she reported the incident to union organizer Harris and to other employees.

Martin claims that when she approached Kitson and told her that she had to leave, Kitson started to yell and scream and began waving her check in her face. She states that when she followed Kitson into the recreation room, to ask her to leave, Kitson continued to yell and scream at her. According to Martin, while in the hallway and also inside the recreation room, Kitson said that she, (Martin), didn't know who she was messing with; that she was messing with the wrong person; and that she didn't know who she was dealing with. Martin claims that based on Kitson's statements and behavior, she was afraid that Kitson might assault her. She didn't.

Martin's testimony was corroborated to some degree by Jennifer Donovan who is a supervisor of the Respondent and a personal friend of Martin. On the other hand, the General Counsel offered the credible testimony of Kitson and four other employees who were present in the recreation room including Carol Mortenson, the former Director of Nursing. All of these people testified that they did not hear Kitson yell or scream or wave anything at Martin. [4] To the extent that they heard anything said between Kitson and Martin, they testified that Kitson asked why other off duty employees were being allowed to attend the party and she was not. They denied that Kitson engaged in any type of physical behavior that could be viewed as

[3] Martin claims that she told Carol Mortenson, the Director of Nursing, about her decision to exclude off duty employees from the facility. Mortenson, however, denies that this was the case.

[4] I note that the door to the recreation room was open and if as Martin contends, Kitson was yelling in the hallway, this would have attracted the attention of people in the recreation room.

threatening. At most, Carol Mortenson testified that she heard Kitson say to some other employees in the room, that Martin didn't know who she is messing with.

The evidence also shows that after Kitson left the facility and met with some people at the parking lot, she related the incident with Martin. Although described as being upset, witnesses testified that she did not yell, curse or scream. The harshest thing attributed to her was reported by Michelle Womack who testified that when she asked Kitson why Martin had asked her to leave, was told by Kitson; "she don't know what [I'm] capable of." In this regard, Kitson testified that Harris told her to write everything down because he might file a charge.

On Friday, May 19, 2006, Kitson was told on the phone by Penni Martin that she should not come to work and that the Company was investigating the alleged threats that Kitson made on May 18. Subsequently on May 25, Kitson was suspended and notified that she could not come back to work until she enrolled in an anger management course. [5]

In my opinion, Martin's decision to exclude from the facility, the known union activists, including Kitson, interfered with the employees' rights to engage in union activity and therefore violated Section 8(a)(1) of the Act. In this regard, off duty employees have always been allowed to visit the facility and talk to other employees. The decision made by Martin on May 18, 2006 was not designed to deal with an allegedly "chaotic situation." Rather, it is my opinion that Martin's decision was designed to exclude only those off duty employees who might decide to go the Respondent's party and by speaking in favor of the Union to other employees, undermine the electioneering that the Respondent was doing on its premises on the day of the election.

Therefore, it is my opinion that the Respondent violated Section 8(a)(1) of the Act when Martin told Kitson that she had to leave the facility when Kitson was attempting to go to the party. Kitson ignored her and this caused what I think was a very minor confrontation between Kitson and Martin. The credible evidence shows that at most, Kitson said either to Martin or to other employees in the recreation room that Martin didn't know who she was messing with. But this, in my opinion, is not even remotely equivalent to a threat of assault. I think that the description of the confrontation by Martin and her friend Donovan was greatly exaggerated. In short, I credit Kitson and the other witnesses who testified that Kitson, neither in the facility nor outside, cursed, yelled, screamed or otherwise made any gestures or statements that could be construed as threatening to a reasonable person. [6]

Inasmuch as the decision to suspend Kitson was made because of the transaction that occurred between her and Martin on May 18, and since that transaction was provoked by Martin's unlawful attempt to force Kitson off the premises in order to prevent her from talking to other employees about the election, I conclude that the suspension violated Section 8(a)(1) and (3) of the Act. [7]

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[5] In making the determination to suspend Kitson, it appears that the Company relied on statements given by Martin and Donovon and that none of the other people who were in the room were questioned.

[6] Michelle Womack testified that after she voted, she spoke to Kitson in the parking lot. Womack testified that Kitson told her that Penni Martin had asked her to leave the facility because she was off the clock; that Kitson told Martin to get off her back and leave her alone; and that "she" [Martin] did not know what she [Kitson] is capable of. Assuming that Kitson made this statement, I don't think that it can reasonably be construed as a threat of assault.

[7] See for example, *State County Employees, Louisiana Council No. 17*, 250 NLRB 880, 886 (1980). Having determined that Kitson's suspension was illegal, it is not necessary for me to consider the impact

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d. Alleged Interrogation and Impression of Surveillance

Cynthia Masters testified that on or about July 21, 2006, she and some other employees were in the break room when Martin asked if they had gone to the meeting and how it was. Masters assumed that Martin was talking about a union meeting that had been held the night before. She testified that after the other employees said that they had not gone to the meeting, Martin asked her if she was okay. Masters testified that at that point she replied that she was okay and that the two walked out together.

Regarding this incident, Martin testified that she knew about the union meeting because notices of the meeting had been posted inside the facility. She concedes that on the day in question she was in the break room and asked the employees how the meeting had gone. According to Martin, another employee, Janet Davis, said she hadn't attended the meeting and she (Martin) replied that she really didn't care who was at the meeting; that she was just making conversation.

In my opinion, this transaction, occurring two months after the election, was essentially trivial and non-coercive. The evidence shows that notices of the meeting had been posted inside the facility and therefore the time and place of the meeting was known to employees and management alike. That Martin asked a few employees about the meeting does not, in my opinion, rise to a level where employees could reasonably believe that their union activities were being kept under surveillance. Nor do I conclude that this single incident amounted to coercive interrogation.

e. Alleged Unilateral Changes

Carol Blackwood-Lindsay, who holds a certification as a CNA, (Certified Nurse's Aide), was hired into a job title called a Rehabilitation Aide. In this capacity she worked with the rehabilitation department under the direction of physical, occupational and speech therapists. To the extent that she had any training, it was informal and obtained on the job.

Blackwood-Lindsey, as a Rehabilitation Aide, worked with patients who possibly could benefit from restorative aide. Essentially this seems to have consisted of walking patients and doing certain types of arm exercises that could be useful in restoring a person's range of motion. This doesn't seem to me to be very complicated and does not require much training. As a Rehabilitation Aide, her schedule was to work five days a week, not including weekends.

Some time in 2004, Blackwood-Lindsey was reassigned so that her schedule consisted of three days a week as a Rehabilitation Aide. She also was given the opportunity and accepted two days a week as a CNA.

It seems that because of the request of certain patients, Blackwood-Lindsey was reassigned to work as a Rehabilitation Aide for five days a week in early May 2006. This took place a couple of weeks before the election and as before, her schedule was from Monday to Friday.

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of the Company's requirement that she enroll in an anger management course. This is simply not relevant.

In early August, 2006, Martin decided to eliminate the position of Rehabilitation Aide and notified Blackwood-Lindsey that although her job title was being eliminated she could continue to work as a CNA. This offer was accepted. At about the same time, other employees who worked as CNAs were also told that the Rehabilitation Aide position had been eliminated and that they would be assigned to do some of the work that had done with Blackwood-Lindsey's patients. This resulted in some on the job training, which Avril Wallace described as taking about 5 minutes per patient.

As a consequence of the change, Blackwood-Lindsey was told that as a CNA, she would have to work every other weekend. When she told Martin that she had another job on weekends, Martin replied that all of the other CNAs were required to work alternating weekends and that she could not make exceptions because that could lead to a situation where some weekends might not be covered. Martin agreed to give Blackwood-Lindsey 30 days to make the transaction and ultimately the Respondent agreed to allow her to work every Saturday instead of working every other Saturday and Sunday.

Also as a result of this change, Martin testified that she realized that one other CNA, Avril Wallace, did not work on weekends. Wallace, who has worked for the Respondent for 28 years, testified that in mid September, Martin told her that as of October 1, 2006, she would have to work every other weekend. Wallace testified that she told Martin that she had been working Mondays to Fridays for 20 years and Martin responded that, "everybody who's employed here will have to work every other weekend."

There is no doubt that the Respondent unilaterally, and without notice to or bargaining with the Union, eliminated the job title of Rehabilitation Aide. In doing so, this resulted in a change in the weekly schedule of Blackwood-Lindsey and the reassignment of some of her previous work to other employees. Also, as a consequence, this led to the change of Wallace's work schedule so that she was required to work every other weekend.

The question is whether this set of changes was significant or was essentially inconsequential. [8]

The elimination of the Rehabilitation Aide position changed, at least to a degree, the job of Blackwood-Lindsey. But prior to this change, she had worked for almost two years doing both the job of a Rehabilitation Aide and a CNA. And in many respects the jobs are not all that dissimilar. The things done by a Rehabilitation Aide in terms of helping patients to walk and moving their arms, is also done, perhaps to a lesser degree, by the CNAs. On the other hand, a Rehabilitation Aide does not have to do some of the things that CNAs do, such as feed or help wash patients.

From the point of view of Blackwood-Lindsey, the most basic change seems to be the alteration of her schedule from working Monday to Friday to being required to work alternative weekends, or as ultimately was the case, every Saturday. (For the same number of hours). As far as I know, the change to working exclusively as a CNA did not result in any change in her pay or in any other term or conditions of her employment.

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[8] In cases such as *Ramada Plaza Hotel*, 341 NLRB 310 (2004) and *Mike O'Connor Chevrolet-Buick-GMC Co., Inc*., 209 NLRB 701, the Board has held that unilateral changes made after a Union has won an election but before a Certification, will violate Section 8(a)(5) of the Act. The Respondent asserts that this rule should not apply in the healthcare industry in circumstances where the Employer's objections to an election are pending and unresolved.

From the point of view of some of the other CNAs, the change did not make much difference in their jobs. Walking patients and doing arm exercises was something that they did during the course of their normal job duties and to the extent that there was any change, Avril Wallace said that it took about five minutes per patient to learn. There was no evidence that this resulted in any more overall work for these people.

The evidence shows that for many years, the practice of the Company was to require CNAs to work every other weekend. One exception was Blackwood-Lindsey who, since 2004 to May 2006, worked as a Rehabilitation Aide for part of the week and as a CNA for the remainder of the week. The other exception was Avril Wallace who was a very senior employee.

Accordingly, to the extent that we are talking about work schedules, what really took place was to have *all* employees conform to what had been basically the uniform practice of requiring CNAs to work alternative weekends. This affected only two employees in a much larger unit. One was Avril Wallace who for reasons unknown did not previously work weekends. And the other was Carol Blackwood-Lindsey, who had never previously been assigned to work full time as a CNA.

To the extent that we are talking about a change in Blackwood-Lindsey's job functions or the actual job functions of the other CNAs, it is my opinion, that these changes were neither material nor substantial. See for example *Sunoco Inc.*, 349 NLRB No. 26 (2007).

Based on the above, I therefore am going to recommend that these allegations be dismissed.

III. The Objections to the Election

One of the Employer's Objections is that on the day of the election, employee Winsome Kitson, acting as the observer for the Union, threatened the Respondent's administrator and communicated her threats to eligible voters.

The evidence regarding this objection has already been discussed in relation to my conclusion that the Respondent illegally suspended Kitson. I have concluded that when Penni Marti sought to force Kitson out of the facility at around 3:00 p.m., she did so in order to bar Kitson from talking to other employees about the election and thereby preventing Kitson from spoiling the Company's party where it was engaged in its own last ditch electioneering. I have concluded that the credible evidence did not establish that Kitson made any threatening statements to Martin or that she engaged in any conduct that could reasonably be construed as threatening. Nor did I conclude that Kitson made any statements to employees that could reasonably be construed as threats to Martin.

Based on the above, I conclude that this Objection has no merit and should be overruled.

The Employer also alleged that representatives of the Union told eligible voters that the Union would waive union dues for employees who also worked at other facilities represented by the Respondent.

In support of this Objection, the Employer presented management employees who testified that at several meetings that the company held before the election, certain employees asserted that they were by the Union that if they worked at other facilities represented by the

Union and paid dues there, they would not have to pay dues in relation to their employment at Bloomfield.

The Employer did not produce any witnesses who testified that they were told this by any union representatives and the employees who allegedly made these statements at the meetings were not union agents. Therefore, the testimony presented by the Employer was based solely on hearsay.

The evidence establishes that the Union's policy regarding dues is to base dues on each employee's pay with a maximum of $60.00 per month. In situations where employees work at more than one represented facility, the Union bases an individual's dues on his or her total income but with a maximum of $60 per month. Before the election, this policy was described and transmitted by the Union to the employees in its campaign literature. Moreover, the Company's management was aware of the Union's policy and could have communicated it either orally or in writing to the employees.

Assuming that some employees, who cannot be construed to be union agents, misunderstood the Union's dues policy and expressed that misunderstanding at company meetings, this would not, in my opinion, be grounds for setting aside this election. I therefore overrule this Objection.

Conclusions of Law

1. By preventing off duty employees from talking to other employees at the Company's facility on May 18, 2006, the Respondent violated Section 8(a)(1) of the Act.

2. By suspending Winsome Kitson because the Respondent sought to prevent her from engaging in union and protected concerted activity, the Respondent violated Section 8(a)(1) & (3) of the Act.

3. The aforesaid unfair labor practices affect commerce within the meaning of Section 2(6) and (7) of the Act.

4. Except to the extent found herein, the Respondent has committed no other violations of the Act.

5. The Objections to the Election are without merit and should be dismissed.

Remedy

Having found that the Employer has engaged in certain unfair labor practices, I find that it must be ordered to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act.

As I have concluded that the Respondent illegally suspended Winsome Kitson, it must reinstate her to her former job and make her whole for any loss of earnings and other benefits, computed on a quarterly basis from the date of such refusal less any net interim earnings, as prescribed in *F.W. Woolworth Co.*, 90 NLRB 289 (1950), plus interest as computed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987).

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended [9]

ORDER

The Respondent, Bloomfield Health Care Center, its officers, agents, and representatives, shall

1. Cease and desist from

(a) Preventing off duty employees from entering the facility in order to talk to other employees about the Union or about other employment matters of mutual concern.

(b) Suspending employees because of their union or protected concerted activity.

(c) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) To the extent it has not already done so, within 14 days from the date of this Order, offer Winsome Kitson full reinstatement to her former job and make her whole for any loss of earnings and other benefits suffered as a result of the discrimination against her from May 19, 2006, in the manner set forth in the Remedy section of this decision.

(b) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.

(c) Within 14 days after service by the Region, post at its facilities in Bloomfield Connecticut, copies of the attached notice marked "Appendix." [10] Copies of the notice, on forms provided by the Regional Director for Region 34, after being signed by the Respondent Employer's authorized representative, shall be posted by the Respondent Employer immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent Employer to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent Employer has gone out of business or closed the facility involved in these proceedings, or sold the business or the facilities involved herein, the Respondent Employer

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[9] If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

[10] If this Order is enforced by a Judgment of the United States Court of Appeals, the words in the notice reading "POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD" shall read "POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD."

shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondents at any time since May 18, 2006.

(d) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

IT IS FURTHER ORDERED that the complaint is dismissed insofar as it alleges violations of the Act not specifically found.

IT IS FURTHER ORDERED that the petition in Case No. 29-RC-8044, be remanded to the Regional Director for Region 34 for further action consistent with the findings of this Decision.

Dated, Washington, D.C., March 30, 2007

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Raymond P. Green
Administrative Law Judge

APPENDIX

NOTICE TO EMPLOYEES

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

Section 7 of the Act gives employees these rights.

To organize
To form, join, or assist any union
To bargain collectively through representatives of their own choice
To act together for other mutual aid or protection
To choose not to engage in any of these protected concerted activities.

WE WILL NOT prevent off duty employees from entering the facility in order to talk to other employees about the Union or about other employment matters of mutual concern.

WE WILL NOT suspend employees because of their union or protected concerted activity.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce employees in the exercise of the rights guaranteed them by Section 7 of the Act.

WE WILL offer Winsome Kitson full reinstatement to her former job and make her whole for any loss of earnings and other benefits suffered as a result of the discrimination against her.

Bloomfield Health Care Center

(Employer)

Dated _____ **By** _____

(Representative) **(Title)**

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlrb.gov.

280 Trumbull Street, 21st Floor
Hartford, Connecticut 06103-3503
Hours: 8:30 a.m. to 5 p.m.
860-240-3522.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER, 860-240-3528.