

served upon the parties a report containing resolutions of credibility issues, findings of fact, and recommendations to the Board as to the disposition of these objections. Within 10 days from date of the issuance of such report, any party may file with the Board in Washington, D. C., an original and 6 copies of exceptions. The party filing the same shall serve a copy thereof upon each of the other parties, and the Regional Director. If no exceptions are filed thereto, the Board will adopt the recommendations of the hearing officer.

Preston Trucking Company, Inc., Petitioner and Local 822, International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, AFL-CIO. *Case No. 5-RM-312.*
March 9, 1956

DECISION AND DIRECTION

Pursuant to a stipulation for certification upon consent election, an election by secret ballot was conducted on October 25, 1955, under the direction and supervision of the Regional Director for the Fifth Region, among the employees in the unit described in the stipulation. At the conclusion of the election, a tally of ballots was furnished the parties in accordance with the Board's Rules and Regulations. The tally showed that of approximately 5 eligible voters, 3 cast valid ballots, of which 2 were for, and 1 against, the participating labor organization. There were two challenged ballots.

As the challenged ballots were sufficient in number to affect the results of the election, the Regional Director, in accordance with the Board's Rules and Regulations, issued his report on challenges. In his report he recommends that the challenge to the ballot cast by Byron Abbott be overruled and that the challenge to the ballot cast by William Morris be sustained. On December 29, 1955, the Employer filed exceptions to the Regional Director's report on challenges.

Upon the basis of the entire record in this case, the Board makes the following:

FINDINGS OF FACT

1. The Employer is engaged in commerce within the meaning of the Act.
2. The labor organization involved claims to represent certain employees of the Employer.
3. A question affecting commerce exists concerning the representation of employees of the Employer within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act.
4. In agreement with the parties, 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 office clerical employees at the Employer's Norfolk, Virginia, terminal, excluding all other employees, guards, watchmen, professional employees, part-time personnel connected with the United States Navy, confidential employees, and supervisors as defined in the Act.

The challenges: Byron Abbott, whom the Employer challenged as a supervisor, works as a rate clerk, with three other office clerical employees, in the Employer's Norfolk terminal office. The Regional Director's investigation reveals that Abbott was never told that he has any authority to hire, fire, or discipline other employees, or to recommend such action, and fellow employees reported that they do not regard him as their supervisor. Although the Employer set forth in a written statement that Abbott lays out work and supervises its performance, the investigation shows, according to the Regional Director, that Abbott is the most experienced employee in the office, and that for this reason other office employees often seek his advice. In these circumstances, the Regional Director concluded that Abbott was not a supervisor, and recommended that the challenge to his ballot be overruled. The Employer, in its exceptions, has not alleged any new facts in support of its contention that Abbott is a supervisor, nor does the Employer claim that the Regional Director overlooked or rejected proof offered to him. In these circumstances, we rely on the Regional Director's findings, and conclude that the Employer has failed in its exceptions to raise any substantial and material issues that warrant holding a hearing. We shall therefore adopt the Regional Director's recommendation,¹ and hereby overrule the challenge to the ballot of Byron Abbott.

William Morris, whom the Union challenged as a supervisor, is primarily, according to the Regional Director's investigation, a salesman. He receives a commission, has an expense account, and his duties involve selling the Employer's trucking services and maintaining goodwill with customers. The Regional Director concludes, on these facts, including the written statement of the Employer, that Morris was not a supervisor, and that he lacks a sufficient community of interest with the office clerical employees to warrant his inclusion in the office clerical unit. He recommended that the challenge to Morris' ballot be sustained. The Employer's exceptions do little more than reiterate its claim that Morris properly belongs in the unit and allege no facts in support of its assertion. The exceptions therefore do not raise any substantial or material issues with respect to the challenge here involved. We shall, accordingly, adopt the Regional Director's recommendation² and hereby sustain the challenge to the ballot of William Morris.

¹ *C. O. Anderson Stores Company*, 104 NLRB 218, 219

² *National Foundry Company of New York, Inc.*, 112 NLRB 1214.

As we have sustained the challenge to 1 of the 2 challenged ballots and have overruled the challenge to the other ballot and as the outcome of the election depends on the consideration of such ballot, we direct that the ballot of Byron Abbott be opened and counted.

[The Board directed that the Regional Director for the Fifth Region shall, within ten (10) days from the date of this Direction, open and count the ballot of Byron Abbott, prepare and cause to be served upon the parties a supplemental tally of ballots, including therein the count of the ballot described above, and further proceed in accordance with the provisions of Sections 102.61 and 102.62 of the National Labor Relations Board's Rules and Regulations.]

Swift & Company and Amalgamated Meat Cutters and Butcher Workmen of North America, Local 615, AFL-CIO and General Drivers, Helpers and Inside Employees Union No. 329, AFL-CIO, Joint-Petitioners. Case No. 18-RC-2639. March 9, 1956

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Clarence A. Meter, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act.

2. The labor organizations involved claim to represent certain employees of the Employer.

3. A question affecting commerce exists concerning the representation of employees of the Employer within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act.

4. The Employer is an Illinois corporation with the main office in Chicago, Illinois, engaged in the sale and distribution of meat products and dairy and poultry products with places of business located in many of the States. This proceeding involves the Employer's operation located at Sauk Centre, Minnesota.

The Petitioners and the Employer agree substantially on the appropriateness of a production and maintenance unit. They differ as to the inclusion of the procurement route drivers, the Employer urging that they should be excluded from the plant unit or placed in a separate bargaining unit because of the lack of a community of interest with the production employees. The Petitioners desire the inclusion of the procurement drivers in the plant unit, but stated at the hearing