

Inter-County Blood Banks, Inc. and Television, Radio, Instrument, Business Machine and Furniture Manufacturing Drivers, Helpers, Warehousemen and Employees, Local 854, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Petitioner. Case 29-RC-574.

June 9, 1967

DECISION ON REVIEW AND ORDER

BY CHAIRMAN McCULLOCH AND MEMBERS FANNING AND JENKINS

On November 22, 1966, the Regional Director for Region 29 issued a Decision and Direction of Election in the above-entitled proceeding, in which he denied the Employer's motion to dismiss the petition on jurisdictional grounds and directed an election in a requested unit of drivers. Thereafter, in accordance with the National Labor Relations Board Rules and Regulations, Series 8, as amended, the Employer filed a timely request for review of the Regional Director's Decision on the grounds, *inter alia*, that substantial questions of law and policy were raised by his assertion of jurisdiction herein because of the absence of, or departure from, officially reported Board precedent. The Employer also made a request for oral argument. The Petitioner filed opposition to the request for review. By telegraphic order dated January 24, 1967, the Board granted the request for review and stayed the election pending decision on review. Thereafter the parties filed briefs on review.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its powers in connection with this case to a three-member panel.

Upon consideration of the entire record in this case with respect to the issues under review, including the briefs of the parties, the Board makes the following findings:¹

The Employer contends, *inter alia*, that because it provides blood bank services for hospitals over which the Board does not assert jurisdiction, the Regional Director should have granted its motion to dismiss. We find merit in this contention.

The Employer was chartered in 1942 as a nonprofit blood bank to obtain and provide blood for the use of individuals and to support research. It is operated under license from, and is regulated by, the

National Institutes of Health, the State of New York, and the Nassau County Department of Health. The Employer currently provides blood to 35 to 40 hospitals on Long Island, all but 3 of which qualify as nonprofit hospitals. Through the clearinghouse facilities of the American Association of Blood Banks, of which the Employer is a member, it sends and receives blood or blood credits throughout the country.² The Employer also makes contributions from surplus funds to various blood research laboratories and projects, and it receives in return copies of reports on research done with its contributions. At various times over the years, it has collected and processed blood free of charge for the armed services. The Employer is accorded tax-exempt status as a charitable nonprofit organization by both the Federal and New York State governments.

The Employer collects blood from donors under group, family, and individual plans which provide blood credits for the various participants. It also maintains a list of request donors upon whom it calls in special situations, particularly those involving open-heart surgery, and it purchases a small percentage of blood from these and other donors.³ It maintains about 13 donor centers, mostly in hospitals, and several mobile blood units. The hospitals provide space free of charge, but the Employer provides its own equipment and medical staff to operate the donor centers.

Most of the blood collected is delivered on a daily basis to the hospitals with which the Employer has a relationship and is stored by them for their use. A small portion of the blood collected is used to supply other hospitals and research institutions, to pay blood credits for participants in the above-mentioned plans, sometimes through the clearinghouse, and to make blood plasma. No charge is made by the Employer to the hospitals it regularly supplies with blood unless they frequently let blood expire, in which event a fee of \$15 per pint of expired blood is charged.

Under its dispersal system, a user deposits \$35 per pint of blood received and may redeem his deposit by donating blood or assigning accumulated blood credits, on a two-for-one basis.⁴ The hospital bills the user for the blood supplied, crediting a patient with blood credits where applicable, and remits the money collected to the Employer. In the case of indigent patients, or where the Employer is satisfied that the user is financially unable to pay, the Employer excuses payment, urging only that donations of blood be made by the user and friends.

¹ As the record, including the briefs of the parties, adequately presents the issues and the positions of the parties, the request for oral argument is hereby denied.

² These facilities are used to repay other blood banks for blood provided by them to persons having credits with the Employer. Most of the transactions involve transfers of credits rather than whole blood.

³ When the Employer purchases blood it pays the donors \$15 or

\$17.50 per pint, depending on the rarity of the blood type.

⁴ The Employer requires redemption on a two-for-one basis in order to cover both the cost of the blood, the assigned book value of which is \$17.50 per pint, and processing charges, estimated to be about \$15 per pint. When users receive in excess of 5 pints of blood, redemption beyond the fifth pint is on a one-for-one basis.

The various group, individual, and family plans may contain slight variations in the application of the blood credit system.

The Employer likewise makes no charge for blood it supplies, on occasion, to the armed services, to victims of disasters, such as a train wreck, and to persons suffering from certain diseases requiring large quantities of blood.

During its fiscal year ending October 31, 1965, the Employer collected 38,730 pints of blood, and provided 37,400 pints to users. It received cash revenues from deposits of about \$795,000, of which \$32,000 was remitted to users who redeemed their deposits. In addition, it had an outstanding balance of uncollected deposits in excess of \$152,000. During the same year, it purchased more than \$5,000 worth of goods and supplies directly from firms located outside the State and an additional \$45,000 worth which originated outside the State. It also contributed about \$25,000 to research projects during the year.

Upon the foregoing, we find, contrary to the Regional Director, that the Employer's operations are intimately related to the operations of the hospitals to which it supplies blood for the treatment of patients, almost all of which, we note, are nonprofit hospitals exempt from the Board's jurisdiction. For this reason, we conclude that it would not effectuate the policies of the Act to assert jurisdiction over the Employer herein.⁵

Accordingly, we shall grant the Employer's motion to dismiss the instant petition.

ORDER

It is hereby ordered that the petition filed herein be, and it hereby is, dismissed.

⁵ See *The Horn & Hardart Company*, 154 NLRB 1368. The case of *Bay Ran Maintenance Corporation of New York*, 161 NLRB

820, relied upon by the Regional Director, is factually distinguishable.