

**Marriott In-Flite Services, a Division of Marriott-Hot Shoppes, Inc. and Local 71, Transportation, Terminal, Interplant and Commissary Food Employees Union, Hotel, Restaurant Employees and Bartenders International Union, AFL-CIO, Petitioner.** Case 29-RC-779

November 20, 1967

## DECISION ON REVIEW

BY MEMBERS FANNING, BROWN, AND JENKINS

On August 22, 1967, the Regional Director for Region 29 issued a Decision and Direction of Election in the above-entitled proceeding, in which he found appropriate a unit confined to employees at one of the Employer's three "in-flite" kitchens providing catering services to certain airlines at John F. Kennedy Airport on Long Island, New York. Thereafter, the Employer filed a timely request for review of the Regional Director's Decision on the grounds that in making his unit determination he departed from established Board policy and made factual findings which were clearly erroneous.

On September 20, 1967, the National Labor Relations Board by telegraphic Order granted the request for review and stayed the election pending decision on review. Thereafter, the parties filed timely briefs on review.

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

The Board has considered the entire record in this case with respect to the issues under review, including the briefs of the parties, and makes the following findings:

The Petitioner sought – and the Regional Director found appropriate – a unit of production employees, maintenance mechanics, mechanics' helpers, drivers, drivers' helpers, field coordinators, and storeroom employees at the Employer's "in-flite" kitchen, designated by it as Operation 377, located at 152-65 Rockaway Boulevard, Jamaica, New York. The Employer, in its request for review, contends that the appropriate unit must at least include similar employees at its two other "in-flite" kitchens providing catering services for flights out of Kennedy Airport, designated as Operations 374

and 300, respectively, located at New York Boulevard and Rockaway Boulevard, Jamaica, and at Scandinavian Airlines Service (S.A.S.), hangar 18, on the airport grounds. The Employer also has a restaurant and an employee cafeteria in the Eastern Airlines Terminal, designated as Operation 376, located in the terminal building. There is no history of collective bargaining for any of the employees in these four operations.

The employees at Operations 377, 374, and 300 prepare food, assemble it on trays, place it in carriers, and transport it to aircraft. Operation 377, which employs 305 employees, together with Operation 376, with 140 employees, have been in existence for some time.<sup>1</sup> Operation 377 prepares in-flight meals for Eastern and Delta Airlines. Operation 300, employing 75 employees, was established in 1961 and caters for S.A.S. and Air India.<sup>2</sup> Operation 374, with 80 employees, was opened in March 1967, and services flights of Braniff (including Eastern Airlines' interchange flights with Braniff),<sup>3</sup> Aeronaves de Mexico, Avianca, and Lan Chile Airlines. Most of the employees at Operation 374 were transferred from the other two kitchens with the airline accounts they serviced.

The three kitchen operations involved are geographically close to one another. Operations 377 and 374, located off the airport grounds, are 1 mile apart and 1-1/2 and 1-3/4 miles, respectively, from Operation 300. Furthermore, the Employer stated at the hearing that it is in the process of constructing a new building on the airport grounds where it will consolidate all of its in-flight kitchen operations. According to the construction plans, which have been approved by the Port of New York Authority, the new building will provide almost three times the space of the three current kitchen facilities together. The Employer estimated that the new building will be completed by March 1, 1968.<sup>4</sup>

All four operations servicing Kennedy Airport are under the general supervision of a district manager. The Employer's central finance office in Washington, D.C., performs certain functions for all of its facilities. The district manager visits each of the four operations at Kennedy Airport on a daily basis. Under him is a district personnel representative whose office performs personnel and record-keeping functions for all four local operations including advertising for, interviewing, classifying, and assigning applicants for employment. Purchas-

<sup>1</sup> In *National Caterers of New York, Inc.*, 129 NLRB 699, the Board directed elections in separate units for each of these two operations, then the only ones in existence.

<sup>2</sup> In *Hot Shoppes, Inc.*, 2-RC-11829, in February 1962, a consent election was held in a unit of employees of Operations 377 and 300, in 29-RC-44 (formerly 2-RC-13853), the Regional Director, in March 1965, directed an election in a stipulated unit of the same scope, found to be appropriate.

<sup>3</sup> An interchange flight is an exchange of aircraft, flight schedules, and/or crews between two airlines.

<sup>4</sup> In its opposition to the Employer's request for review, the Petitioner

attached affidavits of two employees corroborating the testimony of another employee who stated at the hearing that a vice president of the Employer told him that only Operation 300 would be moved to the new location. Also, in its brief on review, the Petitioner offered new evidence that the Employer would lose certain economic advantages it now enjoys by reason of the present location of Operations 377 and 374 off the airport grounds. We are not persuaded that such additional evidence is sufficient basis for discrediting the Employer's unequivocal statement that it plans to consolidate all of its in-flight kitchen operations servicing Kennedy Airport at the new building currently under construction.

ing for all four operations is coordinated under central contracts and by the use of vendors approved by the district manager. Some storage facilities at Operation 377 are commonly utilized and each operation borrows food from any other in emergencies. Operation 377 does certain baking, and prepares sauces and gravies, hors d'oeuvres, and canapes for the other operations. Operation 300 makes pudding and custards for Operation 374. Other examples of integration of the kitchen operations are the assignment of a maintenance crew to Operation 377 to maintain and repair motor vehicles and other equipment used by all three kitchens, the preparation of food on occasion by Operation 377 for Eastern-Braniff interchange flights, and the joint assignment of employees from more than one kitchen to work on projects for special occasions. Employees at all four local operations receive the same wages and benefits, wear the same uniforms, and attend common training classes and social functions.

Each operation has its own manager who reports to the district manager. These managers make the final determination on hire of applicants screened by the central personnel office,<sup>5</sup> and have authority to recommend discipline and discharge of employees under them. At each of the kitchens there is a representative of each airline whose flights are catered. His function is to insure that the Employer is preparing the food and arranging it on trays in accord with the menus and other directions of his employing airline. The kitchen managers, as indicated, must adhere to these menus and directions. Also, they requisition food and supplies already purchased centrally and order certain items from approved vendors.

During the Employer's fiscal year ending July 28, 1967, there were a total of 83 permanent transfers and 306 instances of temporary interchange of em-

ployees among the four local operations. Many of the temporary transfers were occasioned by the Eastern Airlines strike in the summer of 1966, the opening of Operation 374 in 1967, and the use of maintenance employees assigned to Operation 377 to perform maintenance and repair tasks for the other operations. In addition, the Employer stated that some interchange occurs because of seasonal variations in the flow of passenger traffic for the airlines served.

On the basis of the foregoing and the entire record in this case, especially the similarity of functions performed by the three "in-flite" kitchens involved, their close geographic proximity, the degree of integration and centralized control of their operations, the lack of substantial local autonomy of Operation 377, and the extent of interchange of employees among the kitchens, together with the Employer's stated plans to consolidate the three kitchens in a new single building after the estimated March 1, 1968, completion date of such building, we find, contrary to the Regional Director, that the requested unit confined to employees at Operation 277 is inappropriate and that, in accord with the Employer's contention, the smallest appropriate unit herein must include employees at Operations 377, 374, and 300.

Although the unit we thus find appropriate is broader than that sought by the Petitioner, we shall not dismiss the petition inasmuch as the Petitioner has not specifically disclaimed interest in such unit. We shall therefore remand the case to the Regional Director for the purpose of conducting an election pursuant to his Decision and Direction of Election, as modified herein,<sup>6</sup> subject to his ascertaining that the Petitioner has made an adequate showing of interest among the employees in the appropriate unit, and with the further exception that the eligibility date shall be that immediately preceding this date.<sup>7</sup>

<sup>5</sup> Where applicants have not previously been screened by the central personnel office, their hire by the operation managers is subject to the approval of such office.

<sup>6</sup> A corrected election eligibility list, containing the names and addresses of all the eligible voters, must be filed by the Employer with the Regional Director for Region 29 within 7 days after the date of this Decision on Review. The list may initially be used by the Regional Director to assist in determining an adequate showing of interest. The Regional Director shall make the list available to all parties to the election when he shall have determined that an adequate showing of interest among the em-

ployees in the unit found appropriate has been established. No extension of time to file this list shall be granted by the Regional Director except in extraordinary circumstances. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed. *Excelsior Underwear Inc.*, 156 NLRB 1236.

<sup>7</sup> If the Petitioner does not now desire to participate in an election in the unit we find appropriate herein, we shall permit it to withdraw its petition without prejudice upon written notice to the Regional Director within 10 days from the date of this Decision.