

**Yellow Cab Company d/b/a Yellow Cab Company of
Daly City and Office and Professional Employees,
Local 3, Office and Professional Employees
International Union, AFL-CIO, Petitioner. Case
20-RC-11541**

January 4, 1974

DECISION ON REVIEW AND ORDER

**BY CHAIRMAN MILLER AND MEMBERS
KENNEDY AND PENELLO**

On September 7, 1973, the Regional Director for Region 20 issued a Decision and Direction of Election in the above-entitled proceeding, in which he found that the three assistant managers (formerly dispatchers) constituted a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act. Thereafter, in accordance with Section 102.67 of 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, asserting error in failing to find the assistant managers to be supervisors.

By telegraphic order dated October 17, 1973, the National Labor Relations Board granted the Employer's request for review and stayed the election pending decision 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 authority in this proceeding to a three-member panel.

The Board has considered the entire record in this case with respect to the issue under review, and finds as follows:

The Employer, a Nevada corporation, operates a fleet of 18 taxicabs in Daly City, San Mateo County, California, where it also maintains an office under the control of a manager. The office remains open 7 days per week except for certain early morning hours, thus resulting in 19 work shifts per week. During 5 of these shifts the manager runs the office; the remaining 14 shifts are divided among the 3

assistant managers who perform the duties of the manager for a substantial portion of their respective shifts without any other employer official present.

The assistant managers who testified stated that they had physically received a copy of their job description enumerating their responsibilities. It provides that the assistant manager is "vested with the authority to layoff or send employees or drivers home if reporting unfit for duty, or violation of company rules." The job description further states that assistant managers have the "authority to effectively recommend discharge of an employee under his [their] supervision for gross misconduct or rule violation. Such disciplinary action shall be subject to review by the manager." Moreover, each of the assistant managers testified that in performing their duties they had either "pulled a driver off the street" or refused to dispatch drivers on certain calls because of their improper conduct. Prior to May 13, 1973, the assistant managers were classified as dispatchers and the record shows that also during this period they had the authority to send drivers home for violating the Employer's rules, such as, excessive lateness, refusing to dispatch, taking too long for lunch, or reporting to work under the influence of alcohol.

On the basis of the foregoing, including the fact that on many shifts the assistant managers are the only representatives of management responsible for the Employer's operation and the fact that they have effectively exercised certain authority specified in their job description so as to affect the employment opportunities and status of drivers, we find that the assistant managers herein are supervisors within the meaning of the Act, and, therefore, the unit found by the Regional Director is inappropriate for purposes of collective bargaining. Accordingly, we shall dismiss the petition.

ORDER

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