

American National Red Cross, District of Columbia Chapter and American Federation of State, County and Municipal Employees, AFL-CIO, Petitioner.
Case 5-RC-8794

June 14, 1974

DECISION AND DIRECTION OF ELECTION

BY MEMBERS FANNING, JENKINS, AND PENELLO

Upon petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before Hearing Officer William I. Shoor. Following the hearing and pursuant to Section 102.67 of the National Labor Relations Board Rules and Regulations and Statements of Procedure, Series 8, as amended, this case was transferred to the Board for decision. Thereafter, briefs were filed by the Employer and the Petitioner.

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 reviewed the Hearing Officer's rulings made at the hearing and finds that they are free from prejudicial error. The rulings are hereby affirmed.

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

1. The American National Red Cross is a tax-exempt charitable national organization, incorporated under an act of Congress. It maintains in excess of 3,000 chapters throughout the United States. Only the District of Columbia Chapter, hereinafter called Employer, is involved in the instant proceeding. The Employer derives revenues in the forms of contributions from private donors, foundations, and other organizations in excess of \$1 million annually. The Employer's blood program which operates in the District of Columbia, Virginia, Maryland, and portions of West Virginia, yielded a revenue \$1,495,295.42 for the fiscal year ending June 30, 1973. The Employer's total revenue for the fiscal year exceeded \$3 million. There are 63 hospitals which participate in the Employer's blood program, of which 7 are proprietary hospitals. The remaining 56 are either Government-operated or nonprofit hospitals. Forty-nine of the hospitals derive all the blood needed for their operations from the Employer. Of these 49 hospitals, 4 are proprietary hospitals.

In the 2-year period ending June 30, 1973, the Employer collected approximately \$110,000 from

proprietary hospitals for blood distributions. At current prices, the revenue from such distributions would exceed \$150,000. In the last fiscal year, the Employer purchased about \$600,000 worth of equipment and supplies.

The Employer has approximately 225 employees, of whom 100 are employed in connection with the blood program; and approximately 50 of these are registered nurses covered by the instant petition. The work of the nurses is performed in the blood center in the District of Columbia, and in various field collection centers. They do not work in the hospitals to which the blood is supplied. The nurses are entirely under the supervision and control of the Employer and have no contact with the hospitals.

The Employer contends that the Board should decline to assert jurisdiction over the blood program because the Employer is a nonprofit organization whose activities are intimately related to nonprofit hospitals exempt under the provisions of Section 2(2) of the Act, and that its activities in furtherance of humanitarian goals have an insignificant impact on commerce. The Employer further contends that the present case is controlled by *Inter-County Blood Banks, Inc.*,¹ where the Board found that the Employer's operations were intimately related to the operations of the hospitals to which it supplied blood, almost all of which were nonprofit hospitals.

The operation involved in the instant case is the supplying of blood, a service which, though necessary to the hospitals' operations, is performed off the hospitals' premises, and performed for nonexempt as well as exempt hospitals. The Employer purchases its own equipment, and hires, schedules, and supervises its employees. As heretofore stated, the nurses involved are entirely under the supervision and control of the Employer and have no contact with the hospitals.

Contrary to the other arguments raised by the Employer, we conclude that the Employer's impact on commerce is sufficient in our view to warrant the Board asserting jurisdiction over it. In *Drexel Home, Inc.*,² the Board held that an institution's effect on commerce may not be measured by its nonprofit status, its title, its religious affiliation, or its occupants. The Employer's annual gross revenue of more than \$3 million far exceeds any of the dollar volume standards set by the Board for deciding whether to assert jurisdiction. *Inter-County Blood Banks* is materially different from the present case. There, the employer maintained donor centers which were largely located in hospitals, which provided space free of charge. No charges were made to the hospitals for the blood, but the hospitals charged patients and

¹ 165 NLRB 252.

² 182 NLRB 1045.

remitted the money to the employer. Based upon the foregoing and an examination of the operation involved herein, we conclude that the intimate relationship which we found to exist in *Inter-City Blood Banks* does not exist in the instant case, and that that case is distinguishable.³ In view therefore of its substantial involvement in operations affecting interstate commerce, we find that the Employer is an employer engaged in commerce within the meaning of the Act and that it will effectuate the policies of the Act to assert jurisdiction in this proceeding.

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. The parties stipulated that the unit includes all registered nurses employed by the Employer in its blood bank program, excluding office clerical employees, confidential employees, all other employees, and supervisors as defined in the Act. However, the Petitioner would include in the above-stated unit

approximately five head nurses, whereas the Employer contends that they should be excluded as supervisors. Inasmuch as the record does not contain sufficient evidence to enable us to determine whether the head nurses are supervisors within the meaning of Section 2(11) of the Act, we shall permit employees classified as head nurses to vote subject to challenge in the election directed herein.

Accordingly, upon the entire record, including the stipulations of the parties, we find that the following employees constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

All registered nurses employed by the District of Columbia Chapter of the American National Red Cross in its blood program, excluding office clerical employees, confidential employees, all other employees and supervisors as defined in the Act.

[Direction of Election and *Excelsior* footnote omitted from publication.]

³ *Bob's Ambulance Service*, 178 NLRB 1. See also *Clover Fork Medical Services, Inc.*, 200 NLRB No. 44.