

**Madison Square Garden and Local 1716, Council 4,
AFSCME, AFL-CIO, Petitioner.** Case 34-RC-
1565

June 30, 1998

ORDER DENYING REVIEW

BY MEMBERS FOX, LIEBMAN, AND HURTGEN

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel, which has considered the Employer's request for review of the Regional Director's Decision and Direction of Election (pertinent portions of which are attached as Appendix). The request for review is denied as it raises no substantial issues warranting review.¹

MEMBER HURTGEN, dissenting.

I would grant review. I believe that a substantial question has been raised with respect to whether event staff employees are statutory guards. In this regard, I note that, on a periodic basis, these employees function as "guards" who restrict public and employee access to certain areas. On these days, this function is the entirety of what they do. In these circumstances, I believe that a sufficient question has been raised as to justify the Board's review of the matter.

¹ The sole issue presented for review is whether the Regional Director erred in finding that the petitioned-for event staff employees are not guards within the meaning of Sec. 9(b)(3) of the Act.

APPENDIX

DECISION AND DIRECTION OF ELECTION

. . . .

5. The Employer is a Delaware corporation engaged in the entertainment business. Solely involved in this proceeding are the Employer's operations at the Hartford Civic Center which it manages and where it presents exhibitions, concerts, and sporting events. The Petitioner, which currently represent the Employer's facility workers³ at the Civic Center, seeks to represent herein a unit composed of approximately 100 event staff employees. The Employer has filed a Motion to Dismiss the petition claiming that the unit sought is composed of guards within the meaning of the Act and that the Petitioner is prohibited by the Act from representing them because it also represents and admits to membership "non-guards." The Petitioner does not dispute the fact that it represents and admits non-guards as members.⁴ Rather, it contends that none of the petitioned-for employees are guards within the meaning of the Act.

³ The record indicates that the facility workers set up and break down the events and perform light maintenance work.

⁴ The record also indicates that the Petitioner represents the concession workers employed at the Civic Center by another entity.

The record indicates that the Employer's event staff employees are assigned interchangeably to duties as ticket takers, ushers, inspectors, and "guards." As ticket takers they are stationed at the main entrance to the Civic Center where they ensure that patrons' present tickets for the appropriate event, date, and time. As inspectors they are also stationed at the main entrance where they "pat down" or use an electric wand to check patrons for "contraband" (i.e. bottles and cans). As ushers they are stationed at the top and bottom of the Civic Center's aisles where they ensure that patrons with tickets are in the proper locations. As "guards" they are stationed at various locations throughout the Civic Center where access is prohibited (e.g. the "catwalk" overlooking the arena and exits leading to the street) or limited to specific individuals (e.g. members of the press, athletes, entertainers, exhibitors, vendors, handicapped patrons, "skybox" patrons, and private club members).

Although the event staff consists of approximately 100 employees the record reveals that only 16 to 20 employees are assigned as "guards" to an event, and that they are accompanied by 16 to 20 police officers and an undisclosed number of supervisors.⁵ Although event staff employees are authorized to deny entrance and/or access to other individuals and employees, there is no evidence that they can otherwise detain anyone. To the contrary, the record clearly reveals that any problems encountered by event staff employees are to be referred to the supervisors or the police. In this regard, the evidence indicates that event staff employees are not armed, do not wear badges or traditional guard uniforms,⁶ do not provide crowd control, and cannot arrest individuals or eject them from the facility.

Based upon the above and the record as a whole I find that none of the event staff employees are guards within the meaning of the Act. *Wolverine Dispatch, Inc.*, 321 NLRB 796 (1996), and cases cited therein. Therefore, the Employer's Motion to Dismiss the petition is hereby denied.

Accordingly, I find that the following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

All event staff employees employed by the Employer at the Hartford Civic Center excluding facility staff, stagehands,⁷ office clerical employees, and professional employees, supervisors,⁸ and guards as defined in the Act.

⁵ As noted *infra*, the parties have stipulated to the supervisory status of seven individuals.

⁶ During the winter, event staff employees are required to wear identification tags, black pants, black sneakers or shoes, white shirts, red ties, and red sweaters. During the summer, they substitute shirts labeled "event staff" on the back, for the white shirts, ties, and sweaters.

⁷ The record reveals that the stagehands are represented in a separate unit by another labor organization.

⁸ The parties have stipulated that the following seven individuals are statutory supervisors: Donna Konvent, Dianne Dowdell, Juan Ortiz, Ron Brown, Skip Ward, Juliet Little, and Robin Tofil.