

ARA Services Inc. & its wholly owned subsidiaries, Terminal Newsstands, Inc. & Terminal Shops, Inc., d/b/a Aero Enterprises, Inc. and Hotel, Motel, Restaurant & Hi-Rise Employees & Bartenders Union, Local 355, AFL-CIO. Case 12-RC-6462

26 February 1985

DECISION AND CERTIFICATION OF RESULTS OF ELECTION

BY CHAIRMAN DOTSON AND MEMBERS HUNTER AND DENNIS

The National Labor Relations Board has considered objections to an election held on 26 April 1984 and the hearing officer's report recommending disposition of them. The election was conducted pursuant to a Decision and Direction of Election. The tally of ballots shows 29 for and 71 against the Petitioner, with 7 challenged ballots, an insufficient number to affect the results.

The Board has reviewed the record in light of the Employer's exceptions and brief, and adopts the hearing officer's findings and recommendations¹ only to the extent consistent herewith.

In his report, the hearing officer recommended that the portion of the Petitioner's Objection 2 concerning the Employer's grant of a preelection wage increase be sustained and that a new election be held. We do not agree. Rather, we find that the 35-cent wage increase granted by the Employer to unit employees on 7 April 1984 did not constitute objectionable conduct.

The record in this case adequately shows that the wage increase was granted for reasons unconnected to the election campaign. Prior to the Petitioner's filing of a representation petition on 8 February 1984, the Employer made unambiguous statements regarding the timing and amount of a general wage increase which preclude any conclusion that by implementing such a wage increase the Employer sought to affect the election results.

On 7 December 1983 the Employer learned during meetings, which originally had been scheduled as training sessions, that the cashiers in its airport concession operation had numerous complaints about working conditions, including wages.

At one of these meetings, Employer Vice President Karen Powell told employees she would check into the facts, asked the personnel manager to prepare a wage survey, and told employees in attendance that she would get back to them in about a month. On 1 February 1983 Powell met

with a group of employees and discussed action taken on several of the complaints that had been voiced at the December meeting. Regarding employee wages, she reviewed with them the wage survey that had been prepared following their complaints and stated that the survey showed employees had received across-the-board wage increases during the last 5 years varying between 15 cents and 25 cents per hour. In response to an employee inquiry regarding when they would be getting a wage increase in the current year, Powell stated that their annual review date was 7 April because they had received an increase the prior year on that date.² In reply to an inquiry regarding the amount, Powell stated she did not know because she had not yet spoken to her superior, but that it would be logical for it to be at least the historical amount of between 15 and 25 cents and she would like it to be more. Powell reiterated that there would be a raise in April. About 3 February 1983 Powell spoke with her superior, Company President John Ranelli, and recommended that a general wage increase of 25 to 40 cents be granted these employees.

With these undisputed events as background, whose lawfulness has not been challenged, and which occurred prior to the representation petition being filed on 8 February 1984, it is apparent that the subsequent implementation of the wage increase was in full conformity with the prior announcement and therefore has been shown to have been based on business considerations unconnected to the election.

On 15 March 1984 President Ranelli concurred in the decision to give a raise and on 26 March reached a final decision on a 35-cent increase to be granted on 7 April. This raise was announced to employees 2 days later.³

On these facts, it is clear that the Employer had committed itself to giving employees a wage increase on 7 April. The only indeterminate aspect of this wage increase was the amount. However, in the face of prepetition events, including the announcement to employees that it would be at least 15-25 cents and undisputed testimony that a recommendation had been made that it be 25-40 cents, the selection of a 35-cent figure was clearly within the range previously under consideration. More-

² Prior to 1983 the increase occurred at the end of the calendar year, but had been deferred in 1982 until April 1983

³ This announcement stated

As we advised some of you in the January committee meeting, and consistent with the company's past practice of giving an annual increase, we are pleased to announce a wage increase in the amount of 35 cent [sic] per hour for all employees

This increase represents our recognition of the good job you are doing, and we are pleased to put it into effect 7 April 1984

¹ In the absence of exceptions we adopt, pro forma, the hearing officer's recommendations that the Petitioner's Objections 1, 3, 9, and the portion of Objection 2 concerning uniforms be overruled

over, in announcing this increase the Employer did not attempt to use it as election propaganda and thus did not betray any underlying motive inconsistent with this proffered business justification. In this setting, we find no basis to conclude that this wage increase was designed to affect the election. Accordingly, we decline to direct a new election and find that a certification of results of election should be issued.

CERTIFICATION OF RESULTS OF ELECTION

IT IS CERTIFIED that a majority of the valid ballots have not been cast for Hotel, Motel, Restaurant & Hi-Rise Employees & Bartenders Union, Local 355, AFL-CIO and that it is not the exclusive representative of these bargaining unit employees.