

Warner Cable Corporation of Pittsburgh and General Teamsters, Chauffeurs and Helpers Local 249 a/w International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Petitioner. Case 6-RC-9473

8 August 1985

DECISION AND CERTIFICATION OF RESULTS OF ELECTION

BY CHAIRMAN DOTSON AND MEMBERS
HUNTER AND DENNIS

The National Labor Relations Board, by a three-member panel, has considered the objection to a runoff election held on 21 June 1984 and the hearing officer's report recommending disposition of it. The original election was conducted pursuant to a Stipulated Election Agreement. The tally of ballots for the runoff election shows 32 for and 54 against the Petitioner, with no challenged ballots.

The Board has reviewed the record in light of the exceptions and briefs and the recommendations of the hearing officer and finds that a certification of the results of the election should issue.

The Union alleged in its objection that the Employer permitted the consumption of alcoholic beverages on its premises during the runoff election. The hearing officer determined that the presence of beer on company premises undermined the integrity of the election and interfered with the atmosphere in which it should have been conducted. He recommended therefore that the objection be sustained and a new election be directed. We disagree.

It is undisputed in this case that most of the employees knew that beer was available on the day of the election. This evidence, however, does not necessarily warrant the hearing officer's conclusion that the employees "attention had, in fact, been seriously diverted by the availability of beer at the Employer's facility." Indeed, the record here belies that conclusion since there is no showing that the presence of beer on the day of the election impaired the employees' freedom of choice or undermined the integrity of the election.

The record establishes that employees frequently purchased beer which they consumed on the Employer's premises at the end of the workday. On the morning of the election several employees contributed towards the purchase of a keg of beer to drink at the facility after work that day. Uncontroverted evidence establishes that the idea for the party originated with the employees and that this same group of employees generally purchased the beer.¹ The election was not discussed and there is

no evidence that the beer party was related to the representation election.

Although the employees apparently began drinking prior to the end of their scheduled shift,² this occurrence was relatively commonplace. The record reveals many occasions when employees began drinking prior to the official end of their shift.³

Only one employee testified that he had consumed any beer prior to voting and he consumed only a few ounces of beer. The hearing officer alluded to one employee who had four or five glasses of beer prior to 5 p.m. He failed to note, however, that the same employee testified that he did not begin drinking beer until after he voted. Conduct of employees which is unrelated to the election is clearly unobjectionable. Moreover, the Employer's observer testified that no voter appeared to be under the influence of alcohol.

The hearing officer correctly found that the beer was placed at the loading dock entrance to the building but he mischaracterized the proximity of the loading dock to the polling area. One employee testified that the shortest walking distance between the polling area and the beer was 100 feet, but the two areas were separated by walls and corridors. Other employees testified that the loading dock could not be seen from the polling place. Thus, the record clearly demonstrates that the beer keg and the polling area were not proximate to one another.

All but one of the employees who testified at the hearing knew that the beer party had been sponsored by the employees. Critically no employee testified to a belief that the Employer had sponsored the party.

Based on the record before us, the mere presence of alcoholic beverages at the Employer's facility was not shown to have had any effect on the conduct of the election. Neither the Employer nor the Union provided the keg of beer. Thus this is not a case where conduct of one of the parties to an election arguably influences voters, even subtly by

that Coyne or any other supervisor instigated the party. Coyne and Supervisor Jerry Sims attended the party. They had also attended previous beer parties.

² Testimony established that field employees are finished with their work for the day when they return to the facility. This is true even on those occasions when they return prior to the scheduled end of their shift.

³ The hearing officer found that few employees were aware that they were permitted to drink beer prior to the close of the workday and few of those who were aware of it took advantage of it. He concluded, therefore, that the availability of beer prior to the end of the shift on the day of the election gave the appearance that the Employer condoned this particular beer party. However, the only employee who testified in this regard stated that it was a common occurrence for employees to begin drinking prior to the end of their workday and he had observed employees doing so on previous occasions.

¹ The money was given to Supervisor Larry Coyne who agreed to purchase the beer and bring it back to the facility. There is no evidence

the promise or provision of benefits. In short, we find no evidence to support the hearing officer's conclusion that the employees' free choice was impaired.

We find therefore that a certification of results should be issued.

CERTIFICATION OF RESULTS OF ELECTION

IT IS CERTIFIED that a majority of the valid ballots have not been cast for General Teamsters, Chauffeurs and Helpers Local 249 a/w International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, and that it is not the exclusive representative of the bargaining unit employees.