

Ashland Chemical Company, a Division of Ashland Oil Inc. and Teamsters Union Local 294 a/w International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL-CIO, Petitioner. Case 3-RC-9356

July 24, 1989

DECISION AND CERTIFICATION OF REPRESENTATIVE

BY CHAIRMAN STEPHENS AND MEMBERS CRACRAFT AND HIGGINS

The National Labor Relations Board, by a three-member panel, has considered the objections to one¹ of two elections held March 16, 1989, and the Regional Director's report recommending disposition of them. The elections were conducted pursuant to a Stipulated Election Agreement. The tally of ballots for unit A shows 11 for and 2 against the Petitioner, with no challenged ballots. The tally of ballots for unit B shows none for and two against the Petitioner, with no challenged ballots. There was also one void ballot in unit B.

The Board has reviewed the record in light of the exceptions and brief, and adopts the Regional Director's findings² and recommendations, and

¹ The Employer filed objections concerning the election in unit A only.

Because no objections were filed by either party concerning the election in unit B, the Regional Director issued a certification of results in unit B.

² We note in affirming the Regional Director's report that the Employer's objection is limited to the conduct of the Board agent in failing to await the arrival of the Employer's observer prior to slitting open the ballot box for the start of the second session of balloting. The Employer

finds that a certification of representative should be issued in unit A.

CERTIFICATION OF REPRESENTATIVE

It is certified that a majority of the valid ballots has been cast for Teamsters Local 294, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL-CIO, and that it is the exclusive collective-bargaining representative of the employees in the following appropriate unit:

Unit A:

All full-time and regular part-time chemical operators, drivers and material handlers³ employed by the Employer at its facility located on South St., Rensselaer, New York excluding all office clerical employees, professional employees, guards and supervisors as defined in the Act.

does not contend that the Board agent left the ballot box, blank ballots, or polling place unattended, and the Regional Director's investigation revealed no evidence that impugned the integrity of the ballot box. It did reveal, however, that the Employer's observer did not arrive back at the polls until right at 3 p.m., the designated time for reopening. This being the case, it was not inappropriate for the Board agent to slit open the ballot box in preparation for balloting. In order to set aside the election on the grounds of Board agent misconduct, we would have to be presented with facts suggesting a reasonable possibility of a violation of the integrity of the ballot box. See *Niagara Wires*, 237 NLRB 1347 (1978). We find none here.

³ This is the unit description included in the parties' Stipulated Election Agreement. The Regional Director erred in his report by describing the employees in unit A as "chlorine operators."