

NOT TO BE INCLUDED  
IN BOUND VOLUMES

LBP  
South Plainfield, NJ

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

TAC TRANSPORTATION

Employer

and

Case 22-RC-13160

TEAMSTERS, LOCAL 125

Petitioner

DECISION AND CERTIFICATION OF REPRESENTATIVE

The National Labor Relations Board, by a three-member panel, has considered objections to an election held November 10, 2010, and the hearing officer's report recommending disposition of them. The election was conducted pursuant to a Stipulated Election Agreement. The tally of ballots shows 17 for and 12 against the Union, with 1 challenged ballot, an insufficient number to affect the results.

The Board has reviewed the record in light of the exceptions and brief,<sup>1</sup> has adopted the hearing officer's

---

<sup>1</sup>The Employer has excepted to some of the hearing officer's credibility findings. The Board's established policy is not to overrule a hearing officer's credibility resolutions unless the clear preponderance of all the relevant evidence convinces us that they are incorrect. *Stretch-Tex Co.*, 118

findings and recommendations as modified below,<sup>2</sup> and finds that a certification of representative should be issued.

CERTIFICATION OF REPRESENTATIVE

IT IS CERTIFIED that a majority of the valid ballots have been cast for Teamsters Local 125, and that it is the exclusive collective-bargaining representative of the employees in the following appropriate unit:

All full-time and regular part-time drivers, mechanics and tire servicemen employed by the Employer at its South Plainfield, New Jersey facility, but excluding all office clerical employees, temporary employees, dispatchers, warehouse employees, managers, guards and supervisors as defined in the Act, and all other employees.

---

NLRB 1359, 1361 (1957). We have carefully examined the record and find no basis for reversing the findings.

In affirming the credibility findings, we observe that, although the hearing officer stated generally that he credited "all witnesses who testified," he specifically credited employee Peter Stamile's testimony over that of employee Charles Washington regarding the physical layout of the facility and the "general account of events." With respect to Stamile and Washington, this specific credibility resolution clearly prevails over the hearing officer's general crediting of all the witnesses.

<sup>2</sup> We find it unnecessary to pass on the Employer's contention that the hearing officer erred in finding that he was precluded from analyzing union observer Peter Basile's conduct under the third-party misconduct standard in *Westwood Horizons Hotel*, 270 NLRB 802, 803 (1984). Even if that standard were applied, we would not find that Basile's conduct warranted setting aside the election; the Employer failed to show that Basile's conduct created "a general atmosphere of fear and reprisal rendering a free election impossible." *Westwood*, supra at 803.

Dated, Washington, D.C., July 1, 2011.

\_\_\_\_\_  
Wilma B. Liebman, Chairman

\_\_\_\_\_  
Craig Becker, Member

\_\_\_\_\_  
Mark Gaston Pearce, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD