

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

FIRE & ACCESS CONTROL  
SYSTEMS.COM, INC., d/b/a  
JERRY DICKERSON AUTOMATIC  
FIRE PROTECTION

Employer

and

Case 16-RC-10942

ROAD SPRINKLER FITTERS LOCAL  
UNION 669, U.A., AFL-CIO

Petitioner

ORDER

Employer's Request for Review<sup>1</sup> of the Regional Director's Decision and Direction of Election is denied as it raises no substantial issues warranting review.<sup>2</sup>

WILMA B. LIEBMAN, CHAIRMAN

MARK GASTON PEARCE, MEMBER

Member Hayes, dissenting:

I would grant the Employer's Request for Review.

BRIAN E. HAYES, MEMBER

Dated, Washington, D.C., August 13, 2010.

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<sup>1</sup> The Regional Director treated the Employer's request for review as a motion for reconsideration solely with respect to the Employer's contention that the Regional Director erred in failing to establish the statutory or discretionary jurisdiction of the Board. Subsequently, the Regional Director issued a supplemental decision and direction of election noting that the parties had executed a new stipulation on jurisdiction and commerce, and finding that the stipulation includes the appropriate jurisdictional standard. No party requests review of this supplemental decision.

<sup>2</sup> In denying review of the Regional Director's finding that the Employer failed to meet its burden of proving that Washington has statutory supervisory authority to discipline, the Board relies on the facts that Washington made a recommendation to remove employee Isham that was not followed, upper management did not act on the reported incidents without conducting an independent investigation, and there was insufficient specific evidence as to how the written report impacted the employee's job status or tenure. Further, although it is not determinative that Washington's oral warning was not initially memorialized, the fact that it was not memorialized until upper management had undertaken an independent investigation and had directed Washington to fill out the written report supports the Regional Director's finding that Washington did not act with independent judgment.