

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

AMERICAN MEDICAL RESPONSE, INC.
Employer

and

Case 28-UC-60436

SERVICE EMPLOYEES INTERNATIONAL
UNION, LOCAL 1107
Petitioner

ORDER

Employer's Request for Review of the Regional Director's Decision and Order is granted as it raises substantial issues warranting review. Having carefully reviewed the record, we agree with the Regional Director that the disputed Critical Care Transport paramedics (CCT paramedics) are included in the unit represented by Service Employees International Union, Local 1107 (the Union). However, we do not dismiss the petition, as the Regional Director did, but rather process it and clarify the unit to expressly include the CCT paramedics.

The Regional Director dismissed the Union's petition seeking to include CCT paramedics in a unit of EMT and paramedics because he found that the Union did not reserve the right to file a petition before the parties entered into the April 1, 2009 collective-bargaining agreement. The Regional Director also dismissed the petition because he found that it would be unnecessary and "redundant" to clarify the unit because the CCT paramedics perform essentially the same basic functions as the unit paramedics and, therefore, are already part of the unit. Although the Employer agrees that the petition should be dismissed, it argues that the Regional Director erred by failing to dismiss the petition on the additional grounds that the Union waived the right to seek the inclusion of the CCT paramedics in the bargaining unit, and by reaching the merits of the petition to find the CCT paramedics are part of the unit.

Having carefully considered the matter, we conclude that the petition should not be dismissed. Initially, we find, contrary to the Regional Director, that the Union was not required to reserve the right to file a UC petition before entering into the contract. The parties stipulated that they did not negotiate over the CCT paramedics, and the record reveals that the Union had no knowledge of any dispute between the parties over the inclusion or exclusion of the CCT paramedics until after the parties entered into the contract. Absent evidence that the Union had reason to know that the Employer disputed inclusion of the CCT paramedics in the unit, we find no factual or legal ground for the Regional Director's finding that the Union was required to reserve the right to file the petition before entering into the agreement. Nor do we find any grounds to conclude, as contended by the Employer, that the Union acquiesced or otherwise waived the right to seek inclusion of the CCT paramedics into the unit. See Brookdale Hospital Medical

Center, 313 NLRB 592, 593 fn. 3 (1993); see also CHC, Inc., 355 NLRB No. 164 (2010); Austin Cablevision, 279 NLRB 535 (1986).

Turning to the merits, we agree with the Regional Director's finding that the CCT paramedics are properly included in the unit, because they perform essentially the same basic functions performed by unit paramedics. That finding, however, does not make clarification of the unit unnecessary or redundant. To the contrary, because the CCT paramedics remain in the unit, the bargaining unit is clarified to include them in it. See Premcor, Inc., 333 NLRB 1365, 1366 (2001) (order clarifying unit to include position because it performs same basic functions as unit classification has historically performed).

Accordingly, having granted review, we process the petition and clarify the Petitioner's bargaining unit, as set forth in the current collective-bargaining agreement, to include the classification of CCT paramedic.

MARK GASTON PEARCE, CHAIRMAN

BRIAN E. HAYES, MEMBER

RICHARD F. GRIFFIN, JR., MEMBER

Dated, Washington, D.C., March 13, 2012.