

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
FIRST REGION**

In the Matter of

ANGELICA TEXTILE SERVICES

Employer

and

AREA TRADES COUNCIL

Petitioner

Case 01-RC-103428

DECISION AND DIRECTION OF ELECTION

Petitioner seeks to represent a unit of maintenance employees employed by the Employer (Angelica) at its Somerville, Massachusetts facility (the Somerville facility). Because the Employer did not appear at the hearing, there was no stipulation in the record with the respect to the Board's jurisdiction over Angelica, the Union's status as a labor organization, or the appropriateness of the petitioned-for unit.¹

For the reasons set forth below, I find that Angelica is engaged in commerce and that it will effectuate the purposes of the Act to assert jurisdiction in this matter. I also find that the Union is a labor organization within the meaning of the Act and that the petitioned-for unit is appropriate.

¹ On April 16, 2013, the Union filed a petition in Case 01-RC-102897, in which it sought to represent the same employees at issue in this matter. The Union subsequently withdrew its first petition and, on April 23, 2013, re-filed the instant petition. A Notice of Representation Hearing issued on April 24, 2013 and was served on Angelica on April 24, 2013. At the hearing, the Hearing Officer represented, and I take administrative notice, that the Region made multiple telephone calls to Angelica's representatives with respect to both petitions seeking its participation in this matter, but Angelica's representatives did not respond to the phone calls.

Jurisdiction

Facts

The Hearing Officer introduced into the record Stipulated Election Agreements executed by Angelica in 2009 in Case 1-RC-22304, which involved the Somerville facility, and Case 1-RC-22372, which involved Angelica's Worcester, Massachusetts facility. In both cases, Angelica stipulated to the NLRB's jurisdiction under the non-retail standard.

The Hearing Officer also introduced into the record several pages from Angelica's website, in which Angelica represents that it operates 25 medical laundry plants across the United States and serves more than 4200 facilities nationwide.

At the hearing, several maintenance employees who work at the Somerville facility testified that Angelica operates a laundry that cleans, irons, folds, and packages linens and scrubs for several Massachusetts hospitals, including Beth Israel Deaconess Hospital, Brigham and Women's Hospital, Boston Medical Center, Massachusetts General Hospital, New England Baptist Hospital, and Faulkner Hospital. I take administrative notice that those hospitals are themselves engaged in commerce, based on numerous prior representation and unfair labor practice cases in which the Board asserted jurisdiction over those hospitals.

Analysis

In any case where an employer refuses, on reasonable request by a Board agent, to provide information relevant to the Board's jurisdictional determination, jurisdiction will be asserted without regard to whether any jurisdictional standard is shown to be satisfied, if the record at a hearing establishes that the Board has statutory jurisdiction. *Tropicana Products*, 122 NLRB 121, 123 (1959); *Reichenbach Ceiling & Partition Co.*, 337 NLRB 125, 125 (2001).

Based on the record as a whole, I find that the Board clearly has statutory jurisdiction over Angelica. I further find that Angelica, which is a non-retail enterprise, satisfies the Board's standard for jurisdiction over non-retail enterprises. Accordingly, it is appropriate to assert jurisdiction over Angelica in this matter.

Labor organization status

Facts

Thomas Hart, an organizer for the Petitioner, testified that it represents five unions in organizing drives and in collective bargaining: Plumbers Local 12, Electricians Local 103, Carpenters Local 51, Painters District Council 36, and Operating Engineers Local 877. Once organized, employees become members of one of those five unions rather than members of the Petitioner, but the Petitioner executes collective-bargaining agreements that it negotiates on behalf of these employees. It has negotiated more than 25 collective-bargaining agreements pursuant to this arrangement at facilities at which the Petitioner was certified by the NLRB as the exclusive collective-bargaining representative. Petitioner's by-laws refer to its function as formulating proposals for new contracts.

Analysis

Section 2(5) of the Act defines a labor organization as "any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work. *Armco, Inc.*, 271 NLRB 350 (1984); *Coinmach Laundry Corp.*, 337 NLRB 1286 (2002). In light of Hart's uncontroverted testimony and the undisputed record evidence, I find that the Petitioner satisfies the statutory criteria for labor organization status.

Appropriate Unit

Facts

As noted above, Angelica operates a laundry at the Somerville facility that supplies linens to customers such as hospitals and other types of health care facilities. The Petitioner seeks to represent a unit of approximately 19 maintenance employees, including mechanics, mechanic/helper, blow-down mechanic, maintenance mechanics, electricians, plumbers,² and maintenance/boiler room employees employed at the Somerville facility.

The United Food and Commercial Workers represent a unit of production employees at the facility, i.e., those employees who wash, dry, iron, fold and

² In the petition, the Union included the "plumber" classification among those positions it seeks to represent. At the hearing, Thomas LeBlanc, whose job title is mechanic, testified that there is no licensed plumber at the Somerville facility and that, because he has a background in plumbing and heating, he is "kind of the resident plumber." Because there are no employees with the job title of "plumber" at the Somerville facility, I shall not include that classification in the unit.

package the linens. Teamsters Local 25 represents a unit of drivers who transport the linens between the Somerville facility and Angelica's customers.³ Maintenance mechanic Tyrell Taylor testified that the maintenance department employees are the only non-unionized group at the facility. Mechanic Thomas LeBlanc testified that there are also office workers at the Somerville facility, but the record does not reveal if the office workers are represented.

The maintenance department is responsible for maintaining the machinery used in the laundry as well as the heating systems at the facility. The department is headed by Chief Engineer Joel Lynch and Deputy Chief Santana Holcomb. The maintenance department provides coverage seven days a week on three shifts. Employees on the third shift report to lead mechanic Dave Sundeth.⁴ There are three licensed electricians in the department. Three employees are responsible for maintaining the boiler but also perform other types of maintenance work when they are not working on the boiler. One of them has a third class engineer's license and the other two have a second class fireman's license. The mechanics are not required to have any particular license or training, but two of them testified that they are licensed heating technicians, one testifying that he has a background as an electrician obtained from a technical school and apprenticeship, and the other testifying that he is a carpenter, plumber, and HVAC worker by trade. The maintenance employees are all hourly paid and punch a time clock. They all enjoy the same benefits, wear the same uniform, and are all required to provide their own hand tools.

Analysis

In determining the appropriateness of a petitioned-for unit, the Board considers whether the employees are organized into a separate department; have distinct skills and training; have distinct job functions and perform distinct work, including inquiry into the amount and type of job overlap between classifications; are functionally integrated with the Employer's other employees; have frequent contact with other employees; interchange with other employees; have distinct terms and conditions of employment; and are separately supervised. *United Operations, Inc.*, 338 NLRB 123, 123 (2002). I find that the petitioned-for maintenance employees constitute an appropriate unit, in that they work in a separate department and share common supervision, similar duties and qualifications, hours, and working conditions.

Based upon the entire record in this matter and in accordance with the discussion above, I conclude and find as follows:

³ The Somerville facility also employs janitors who are represented by one of the two unions.

⁴ Although the position of lead mechanic was not listed in the petition, there is no evidence that Sundeth possesses supervisory authority, and, at the hearing, it appeared that the Union seeks to include the lead mechanic in the unit. Therefore, I shall include the position of lead mechanic in the unit.

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

2. The Employer is engaged in commerce within the meaning of Section 2(5) of the Act, and it will effectuate the purposes of the Act to assert jurisdiction in this matter.

3. The Petitioner is a labor organization within the meaning of Section 2(5) of the Act and claims to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time mechanics, mechanic/helper, blow-down mechanic, maintenance mechanics, lead mechanic, electricians, boiler engineer, and maintenance/boiler room employees employed at the Employer's Somerville, Massachusetts facility, but excluding guards and supervisors as defined in the Act.

DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. The employees will vote whether or not they wish to be represented for purposes of collective bargaining by the Area Trades Council. The date, time and place of the election will be specified in the notice of election that the Board's Regional Office will issue subsequent to this Decision.

Voting Eligibility

Eligible to vote in the election are those in the unit who were employed during the payroll period ending immediately before the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Unit

employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

Employer to Submit List of Eligible Voters

To ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969).

Accordingly, it is hereby directed that within 7 days of the date of this Decision, the Employer must submit to the Regional Office an election eligibility list, containing the full names and addresses of all the eligible voters. *North Macon Health Care Facility*, 315 NLRB 359, 361 (1994). The list must be of sufficiently large type to be clearly legible. To speed both preliminary checking and the voting process, the names on the list should be alphabetized (overall or by department, etc.). This list may initially be used by me to assist in determining whether there is an adequate showing of interest. I shall, in turn, make the list available to all parties to the election.

To be timely filed, the list must be received in the Regional Office on or before **May 17, 2013**. No extension of time to file this list will be granted except in extraordinary circumstances, nor will the filing of a request for review affect the requirement to file this list. Failure to comply with this requirement will be grounds for setting aside the election whenever proper objections are filed. The list may be submitted to the Regional Office by electronic filing through the Agency's website, www.nlrb.gov,⁵ by mail, or by facsimile transmission at 617-565-6725. To file the eligibility list electronically, go to the Agency's website at www.nlrb.gov, select **File Case Documents**, enter the NLRB Case Number, and follow the detailed instructions. The burden of establishing the timely filing and receipt of the list will continue to be placed on the sending party.

Since the list will be made available to all parties to the election, please furnish a total of **two** copies of the list, unless the list is submitted by facsimile or

⁵ To file the eligibility list electronically, go to www.nlrb.gov and select the **E-Gov** tab. Then click on the **E-Filing** link on the menu, and follow the detailed instructions.

e-mail, in which case no copies need be submitted. If you have any questions, please contact the Regional Office.

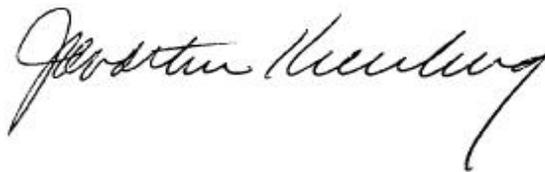
Notice of Posting Obligations

According to Section 103.20 of the Board's Rules and Regulations, the Employer must post the Notices to Election provided by the Board in areas conspicuous to potential voters for at least 3 working days prior to 12:01 a.m. of the day of the election. Failure to follow the posting requirement may result in additional litigation if proper objections to the election are filed. Section 103.20(c) requires an employer to notify the Board at least 5 full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, DC 20570-0001. This request must be received by the Board in Washington by **May 24, 2013**. The request may be filed electronically through the Agency's website, www.nlr.gov, but may not be filed by facsimile.

DATED: May 10, 2013



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