

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 20

HEALTHCARE SERVICES GROUP

Employer

and

NATIONAL UNION OF HEALTHCARE
WORKERS-CALIFORNIA NURSES
ASSOCIATION-AFL-CIO

Case 20-RC-115352

Petitioner

and

SERVICE EMPLOYEES
INTERNATIONAL UNION, UNITED
HEALTHCARE WORKERS-WEST

Intervenor/Incumbent

DECISION AND ORDER

Healthcare Services Group, Inc., (Employer) is a corporation with a place of business in San Rafael, California, engaged in the business of providing dietary, housekeeping and laundry services to healthcare industry customers. National Union of Healthcare Workers-California Nurses Association-AFL-CIO, (Petitioner) by the instant petition, seeks to represent about five employees in the following stipulated unit working at the San Rafael Health & Wellness Centre located in San Rafael, California (San Rafael facility):

Housekeepers and laundry employees employed by the Employer; excluding registered nurses, confidential employees, professional employees, supervisory employees and guards as defined by the National Labor Relations Act.

Service Employees International Union, United Healthcare Workers-West, (Intervenor/Incumbent) and the Employer are signatory to a Memorandum of Agreement (MOA) covering employees in the petitioned-for/ stipulated unit, which binds them to the terms of a collective-bargaining agreement (Agreement) between Intervenor/Incumbent union and Kindred Nursing Centers West LLC,¹ covering among others, the Employer's employees at the San Rafael facility herein effective August 1, 2011, through Dec 31, 2013.

The only issue presented is whether the petition is timely filed. The Employer and Intervenor/Incumbent take the position that the petition is not timely filed and should be dismissed. Petitioner takes a contrary position.

FACTS. The petition was filed on October 22, 2013.² The Employer's Regional Manager testified that the Employer provides housekeeping and laundry services for skilled nursing facilities, including the San Rafael facility, previously called 5 Avenue Kindred. The Employer is applying the terms of the Agreement with the Intervenor/Incumbent to employees in the stipulated unit at the San Rafael facility, which is described in the record as a 50-bed facility that provides 24-hour skilled nursing care to primarily elderly patients in need of physical rehabilitation, occupational therapy, speech therapy and other typically long-term care. Employees working at the San Rafael facility include CNAs, RNs, activities staff and dietary employees employed directly by the San Rafael Health & Wellness Centre. The laundry workers and housekeepers in the stipulated unit are employed by the Employer.

ANALYSIS. The instant petition was filed on October 22, and by the terms of the MOA, the current Agreement is effective through December 31. Thus, the instant petition was filed 70 days prior to the expiration of the MOA.

Section 2(14) of the Act provides that :

The term "health care institution" shall include any . . . nursing home, extended care facility, or other institution devoted to the care of sick, infirm or aged person.

¹ Kindred was the prior employer of employees in the stipulated unit at the San Rafael facility.

The San Rafael facility is plainly a health care institution because it is a skilled nursing home. The employees in the petitioned-for unit provide services integral to the day-to-day operation of the facility. Under applicable Board law, petitions covering employees employed in the healthcare industry must be filed during the period from 90 to 120 days before the contract termination date in order to be timely filed. See *Trinity Lutheran Hospital*, 218 NLRB 199 (1975); see also *W. A. Foote Memorial Hospital, Inc.*, 230 NLRB 540 541 (1977). As the instant petition was filed fewer than 90 days prior to the expiration of the Agreement, I find that it is untimely filed and it is hereby dismissed.

CONCLUSIONS AND FINDINGS

Based upon the record, I conclude and find as follows:

- 1) The Hearing Officer's rulings made at the hearing are free from prejudicial error and are affirmed.
- 2) The parties stipulated, and I find, that the Employer is an employer as defined in Section 2(2) of the Act, and is engaged in commerce within the meaning of Sections 2(6) and (7) of the Act, and it will effectuate the purposes of the Act to assert jurisdiction in this case.
- 3) The parties stipulated, and I find, that the Petitioner and Intervenor/Incumbent are labor organizations within the meaning of the Act.
- 4) No question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Sections 2(6) and (7) of the Act based on the untimeliness of the petition filed herein.

ORDER

IT IS HEREBY ORDERED that the petition be dismissed.

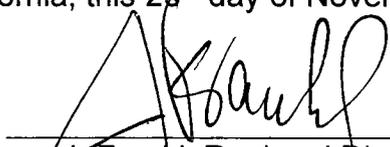
RIGHT TO REQUEST REVIEW

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

² All dates herein are in 2013 unless otherwise indicated.

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 **December 9, 2013**. The request may be filed electronically through the Agency's web site, www.nlr.gov,³ but may not be filed by facsimile.

DATED AT San Francisco, California, this 25th day of November 2013.



Joseph Frankl, Regional Director
National Labor Relations Board, Region 20
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³ To file the request for review electronically, go to www.nlr.gov, select **File Case Documents**, enter the NLRB Case Number, and follow the detailed instructions.