

NOT INCLUDED
IN BOUND VOLUMES

MHJ
Elizabeth, NJ

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

ALLIED AVIATION SERVICE COMPANY
OF NEW JERSEY

Employer

and

Case 22-RC-077044

LOCAL 553, INTERNATIONAL
BROTHERHOOD OF TEAMSTERS

Petitioner

DECISION AND CERTIFICATION OF REPRESENTATIVE

The National Labor Relations Board, by a three-member panel, has considered determinative challenges in an election held June 7, 2012, and the administrative law judge's report recommending disposition of them. The election was conducted pursuant to a Decision and Direction of Election. The tally of ballots shows 21 votes for and 20 votes against the Petitioner, with 3 challenged ballots.

The Board has reviewed the record in light of the exceptions and briefs, and adopts the judge's findings¹ and

¹ The judge was sitting as a hearing officer in this representation proceeding. The Employer has implicitly 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

recommendations,² and finds that a certification of representative should be issued.³

incorrect. *Stretch-Tex Co.*, 118 NLRB 1359, 1361 (1957). We have carefully examined the record and find no basis for reversing the findings. A review of the whole record does not show that a clear preponderance of the evidence supports rejecting the judge's key credibility findings relevant to the determinative issue of whether the Employer's training supervisors effectively recommend that probationary employees be retained for employment.

We note that, on page one of her decision, the judge inadvertently referenced incorrect hearing dates for the underlying representation proceeding. The dates should read "April 5, 6, 10, and 11" rather than "March 20, April 5, 6 and 11." Moreover, at JD 6:20, "had" should read "and," and at JD 14:6, "rule" should read "role."

² The Employer excepts that the judge "mischaracterized the record" by (1) being unclear about who made final retraining decisions and suggesting that Training Manager Albanese made final termination decisions, and (2) incorrectly finding that the training supervisors sign training records. While the judge's decision does at certain points suggest that Albanese made final termination decisions, the judge also correctly found that Operations Manager Quintero was consulted about and involved in all termination decisions. Similarly, while the judge at one point referenced the training supervisors' authority to "complete forms denoting tasks successfully completed," she otherwise referred to a "sign off procedure" and never found that the training supervisors actually sign training records. In both regards, the Employer's argument lacks merit. Here, the salient point is that, regardless of who actually made the final termination decision or signed the actual training document, the training supervisors, using independent judgment, made a recommendation that effectively laid the foundation for the resultant personnel action.

³ The judge ordered that the Regional Director "shall prepare and cause to be served upon the parties a Certification of Representative." There is no need for a remand to the Regional Director; under Sec. 102.69 of the Board's Rules, the Board itself has the authority to issue a certification. Thus, rather than remand, we hereby issue a certification of

CERTIFICATION OF REPRESENTATIVE

IT IS CERTIFIED that a majority of the valid ballots have been cast for the International Brotherhood of Teamsters Local 553, and that it is the exclusive collective-bargaining representative of the employees in the following appropriate unit:

All full-time and regular part-time Fueling Supervisors/Dispatchers/Operations Supervisors, Maintenance Supervisors (including Parts Supervisors and Parts Persons), and Tank Farm Supervisors employed by the Employer at its Newark Liberty International Airport, Elizabeth, New Jersey location, but excluding all fuelers, mechanics, utility persons, tank farm persons, leads, office clerical employees, managers, guards and supervisors as defined by the Act.

Dated, Washington, D.C., December 3, 2013

Philip A. Miscimarra, Member

Kent Y. Hirozawa, Member

Harry I. Johnson, III, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

representative. See *Talmadge Park, Inc.*, 351 NLRB 1241, 1241 fn. 4 (2007).