

**UNITED STATES GOVERNMENT  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 13**

**AALLIED DIE CASTING CO.**

**Employer,**

**and**

**CASE 13-RC-122924**

**TEAMSTERS LOCAL UNION 781,**

**Petitioner.**

**DECISION AND DIRECTION OF ELECTION**

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, (“the Act”), a hearing was held on March 3, 2014, before a hearing officer of the National Labor Relations Board (“the Board”). Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated to the undersigned its authority in this proceeding.<sup>1</sup>

**I. Issue**

The single issue presented during the hearing was whether individuals classified as “Tool Room Leads” are supervisors within the meaning of Section 2(11) of the Act.

The Petitioner, Teamsters Local Union No. 781 maintains that the Employer failed to sustain its burden to prove that Tool Room Leads are supervisors within the meaning of the Act and therefore maintains that an election be directed in the petitioned-for Unit consisting of:

“All full-time and regular part-time employees in the Tool Room of Aallied Die Casting Co., a division of RCM Industries, Inc. at its facility currently located at 3021 Cullerton Drive, Franklin Park, Illinois, excluding all office clerical and professional employees, supervisors and guards as defined by the Act.”

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<sup>1</sup> Upon the entire record in this proceeding, the undersigned finds:

- a. The hearing officer’s rulings made at the hearing are free from prejudicial error and are hereby affirmed.
- b. The employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.
- c. The Petitioner is a labor organization within the meaning of the Act.
- d. There is no collective-bargaining agreement covering any of the employees in the unit sought by the Petitioner or the unit proposed by the Employer, and the parties do not contend that there is any contract bar to this proceeding.
- e. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of 9(c)(1) and Sections 2(6) and (7) of the Act.

There are approximately 12 employees in the petitioned-for unit including the three Tool Room Leads who are at issue.

The Employer contends that the Tool Room Leads are Section 2(11) supervisors and statutorily excluded from the bargaining unit.

## **II. Decision**

Based on the entire record in this proceeding and for the reasons set forth below, I find that the Tool Room Leads are supervisors within the meaning of the Act and they will be excluded from the petitioned-for unit.

Accordingly, IT IS HEREBY ORDERED that an election be conducted under the direction of the Regional Director for Region 13 in the following bargaining unit:

All full-time and regular part-time Tool Room employees employed by Aallied Die Casting Co., a division of RCM Industries, Inc., at its facility currently located at 3021 Cullerton Drive, Franklin Park, Illinois; but excluding the Tool Room Leads, all office clerical, professional employees, guards and supervisors as defined in the Act.

The unit found appropriate herein consists of approximately nine employees.

## **III. Statement of Facts**

### **A. Background**

The Employer is engaged in the business of manufacturing aluminum castings. The Employer's Franklin Park, Illinois facility is comprised of approximately 170 employees, with 120 employees employed in the Production Department. The Production Department contains five subdivisions: Materials, Process Technicians/Engineering, Die Casting, Tool Room and CNC Machining.<sup>2</sup> The Employer's Production Superintendent, Ricardo Nunez, oversees the entire Production Department. Nunez is responsible for the Production Department and its subdivisions to meet efficiency targets, scrap targets and customer on-time delivery. The Employer also has a Maintenance Department which is managed by Manager Aaron Johnson.

The Employer's facility contains a 108,000 square foot manufacturing space with sixteen die casting machines ranging from 500 tons to 1600 tons. In addition to its die casting capabilities, the facility is equipped to provide secondary processes (shot blasting, vibratory, and heat treating), contracted processes (polishing, buffing, painting, anodizing and plating), CNC machining, engineering (in-house metal flow and thermal analysis), quality control lab (real-time X-ray, destructive testing, pressure/leak-testing) and rapid prototyping.

The Tool Room is a separately contained room in the production area which houses numerous machines, including a Bridgeport Mill (removes material from flat surfaces), C&C Lathe (removes material from stock to create round components), Core Grinder (finishing pass

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<sup>2</sup> The record does not reflect what "CNC" stands for and it is not at issue here.

on die cores), Okamoto (surface grinder), Bead Blast Booth (cleans components), Bandsaw (cuts castings or other material) and a Hoist (used to lift dies and other components). The Tool Room employees utilize these machines to perform maintenance on the tools and dies that are used to make the Employer's products. Tool Room employees also utilize the machines to perform mold repair and cavity repair to restore the features to their original conditions and may perform project work such as improving the ergonomics of a certain process. Additionally, Tool Room employees are regularly called upon to perform work on the production floor such as weld repair on a machine, making corrections to the internal cooling lines of production floor machines or polishing out buildup on the dies.

The Employer operates 24 hours per day and it has recently changed its three, eight-hour shift schedule to a four, twelve-hour shift schedule<sup>3</sup> for the Maintenance Department and the Process Technician/Engineering, Die Casting and Tool Room subdivisions of the Production Department. The Employer first began contemplating the shift schedule change around September 2013. According to Nunez, the rollout of the new shift schedule was supposed to take place in January 2014; however, the rollout date was postponed in an effort to address employee questions and concerns. The Employer ultimately staggered the four, twelve-hour shift schedule rollout, beginning with the Production Department's Die Cast subdivision on February 9, followed by the Maintenance Department on February 16 and finally the Production Department's Tool Room subdivision on February 23, 2014.

The Tool Room subdivision, at issue here, employs a total of thirteen individuals including Tool Room Supervisor Roman Reyes. Reyes reports directly to Production Superintendent Nunez.<sup>4</sup> In conjunction with the plans to change the shift schedule, around November 2013, Nunez identified a need for three Tool Room Leads to supervise the additional shift times that Reyes would not be working. Reyes was to work the "A" shift and the three Tool Room Leads would oversee the remaining three shifts. Accordingly, Nunez promoted three employees, Andrew Staniewski, Ronald Heinz and Eduardo Rosales to the Tool Room Lead position, effective February 23, 2014 the rollout date of the new schedule. Each of the three new Tool Room Leads accepted their positions in writing prior to commencing work on February 23. In so doing they acknowledged that they would receive an increase in pay in their new positions.

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<sup>3</sup> The four, twelve-hour shift schedule consists of:

- Shift A, Sunday through Wednesday, 4:00 a.m. to 4:00 p.m.;
- Shift B, Wednesday through Saturday, 4:00 a.m. to 4:00 p.m.;
- Shift C, Sunday through Wednesday, 4:00 p.m. to 4:00 a.m.;
- Shift D, Wednesday through Saturday, 4:00 p.m. to 4:00 a.m.

<sup>4</sup> Although the parties did not explicitly stipulate that Reyes and Nunez are supervisors within the meaning of the Act, the Petitioner does not contend that either should be included in the petitioned-for Unit of employees. Moreover the record demonstrates that as he had when the Employer previously worked three shifts of production, Reyes directly oversees one of the new four, twelve-hour shifts in the Tool Room and has the authority to assign and responsibly direct other employees as well as evaluate employees, effectively recommend merit wage increases and discipline, and utilizes independent judgment in the execution of such functions. With respect to Nunez, as the Production Superintendent, he oversees the Employer's entire production department which includes authority to assign and responsibly direct the 120 employees in production. Nunez's testimony, as well as the Employer's organizational chart, clearly demonstrates that Nunez is accountable for production to include its five subdivisions and directly reports to the Employer's vice President, Robert Hollacher. Accordingly I find that both Reyes and Nunez are supervisors within the meaning of the Act.

## **B. The Duties and Working Conditions of the Tool Room Leads**

In creating the Tool Room Lead position Nunez based the structure and duties of the Leads on the structure and duties of the Leads in its non-Union Maintenance Department because those positions have been in existence for a number of years. According to Nunez, the Tool Room Lead positions were modeled after the Maintenance Department Lead positions because, like the Maintenance Department, no department supervisor is present during the shifts Leads are called upon to supervise, and thus the Lead has the primary decision making authority. Additionally, the structure of the Maintenance Department is similar to the Tool Room inasmuch as each shift in the Maintenance Department is comprised of one lead and one mechanic; the lead directs the mechanic on all activities on the shift as well as performs maintenance work themselves. This structure was in place when the maintenance department operated on three shifts and continued when it transitioned to the new four shift structure in February 2014. This is similar to the one on one supervisory Tool Room Lead to Tool Room employee ratio created as a result of the Employer's move to four shifts and responsibility of the Tool Room Lead to perform both supervisory functions and rank and file Tool Room work.

Because the Tool Room Leads had only been in their newly created positions for about a week, prior to the instant hearing, Maintenance Manager Johnson provided information regarding the duties and authority possessed by their counter parts in the Maintenance Department. Johnson testified that similar to the Tool Room, there are a total of 12 Mechanics or Preventative Maintenance Technicians and four Leads.<sup>5</sup> Johnson testified that Maintenance Leads assign and responsibly direct the work of maintenance employees under their supervision and gave a detailed account of how they carried out those duties. For example, Maintenance Leads prioritize equipment repairs as work orders flow into the department against ongoing projects and direct the maintenance personnel on the shift accordingly, taking into account the employees' capabilities and skill set. Additionally Maintenance Leads have authority to effectively recommend wage increases for employees, issue corrective action, effectively recommend discipline, and adjust grievances between employees and gave examples of situations in which Maintenance Leads exercised such authority. Specifically, Johnson testified that based solely on a Lead's recommendation, a mechanic's excessive cell phone use resulted in that individual being issued a non-written verbal counseling. Additionally, based solely on a Lead's recommendation, a newer employee's exceptional performance resulted in that individual being granted a raise. Similarly, based on a Lead's recommendation, a mechanic received a gift card for coming in on the mechanic's day off over a holiday weekend. Maintenance Leads are also responsible for evaluating employees they supervise on an annual basis and provide a specific merit increase recommendation which serves as the primary source the Employer relies upon in its annual review of employee performance.

With regard to the work flow in the Tool Room and the authority of Tool Room Leads to assign work to Tool Room employees, Nunez testified that the Materials subdivision sets the initial priority for the Tool Room die preparations. In addition to the priority set by Materials, the Tool Room receives requests for other work via work orders from the other Production Department subdivisions on a regular basis. In making work assignments to Tool Room employees, the Tool Room Leads are responsible for reviewing these sources of information,

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<sup>5</sup> There is one Maintenance Department Lead per 12-hour shift.

prioritizing the work orders against the die preparations requirements, assessing the available employees' capabilities and skill level, the resources available and the urgency of the repairs needed on the production floor. The Tool Room Leads alone assign work for the shift. There is no evidence that any other employee or supervisor participates in this task. Assignments change throughout each shift, each day. They change for a variety of reasons: an on-site customer visit to observe its die component open or disassembled, a piece of equipment breaks down, the production floor machines need weld repair, corrections to the internal cooling lines or to polish out buildup on the dies. When one of these things occurs and assistance from the Tool Room is needed, the Tool Room Lead, acting alone, reassigns work based on priority, employee capabilities and the resources available. To this end, the Tool Room Lead has authority to reassign the Tool Room employees to the production floor to complete work orders during the course of a shift. Tool Room Leads are responsible for reviewing the shift's daily activity forms which track each activity performed by employees. The Lead evaluates these activity forms on a daily basis to ensure the Tool Room is meeting its deadlines and work is performed efficiently. The Tool Room Lead has authority to make adjustments on what work is performed during the shift in order to meet deadlines. Tool Room Leads, like their counter parts in the Maintenance Department, will be held accountable for their decisions in assigning work and ensuring employees complete those tasks in their annual management performance appraisal which is the same appraisal used for other managers. Specifically, the Maintenance Department Leads' performance appraisals evaluate management traits, rating the Leads' ability to use judgment, implementation of decisions made through their use of judgment, successful motivation of others, ability to train/develop others and provide leadership within area of responsibility. Tool Room Leads will be evaluated using the same form and criteria.

The record contains a job description for the Tool Room Lead position, which states that the Lead is to manage and review the activities of the Tool Room personnel. It further states:

Ensure die preparations are completed per checklists and die-specific requirements, following priority set by Materials. Make recommendations for improvements to Tool Room operations and equipment. Provide positive leadership. Schedule and prioritize Tool Room for the shift based on input from production control, tool room supervisor, die cast supervisor and other appropriate personnel. Ensure all documentation is completed by the employee performing the work. Evaluate and develop personnel, and work with the supervisor to identify training needs. Train new employees. Assign responsibilities for tool repair. Use statistical tools; Interpret control charts; Maintain a clean and organized work area.

In addition to assigning work, the Tool Room Leads are responsible for attending shift handover and production meetings. Specifically, Tool Room leads attend "Last Shot Meetings," to review a production run. The participants of a last shot meeting include supervisors and department leads. Tool Room Leads are also responsible for providing safety and product quality training to the employees on their shifts on an ongoing basis. The Tool Room Leads, unlike the Tool Room employees, share an office space, have computer access and company email accounts. In addition to their supervisory duties, Leads also continue to perform the work performed by rank and file Tool Room employees, however receive an additional \$1.00 per hour

in wages to compensate for their additional responsibilities.<sup>6</sup> Finally, Nunez testified that the supervisor and leads in the Maintenance Department wear a type of uniform comprised of a blue shirt to designate these individuals as supervisors. According to Nunez, the Tool Room Leads will likewise be required to wear light blue shirts to distinguish them as Leads.

The Tool Room Leads report directly to Supervisor Reyes. However, given the four shift schedules, there is minimal face-to-face contact or exchange between the Leads and Reyes. The record shows that Reyes, on shift “A”, works only one day per week with shift “B”, on Wednesdays. During the remainder of shift “B” (Thursday – Saturday 4:00 a.m. to 4:00 p.m.) and the entirety of shifts “C” and “D” Tool Room employees work exclusively under the direction of their respective Lead. As such, Tool Room Leads are exclusively responsible for reviewing the performance and efficiency of the employees on their respective shifts. For example, after completing tasks, the Tool Room employees and Leads complete a daily Time Usage Sheet and these sheets are reviewed by the Lead to evaluate efficiency levels prior to their final submission to Supervisor Reyes. With first-hand knowledge of its shift employees, Tool Room Leads, like their counterparts in the Maintenance Department, will be directly responsible for filling out annual performance appraisals. The performance appraisals utilize a rating system with respect to attendance, attitude, teamwork, application of company policy, job skills, communication skills and if applicable, management skills. In addition, there is a section for the Lead to specify a proposed wage increase and justification and thus, the performance appraisals are used to determine merit increases in wages and bonuses. Based on the Leads’ rating of the employees’ performance factors, Reyes and Nunez will review the performance appraisals and ultimately working with Human Resources, will determine the amount of the raise or bonus the Tool Room employees will receive.

Nunez testified that Tool Room Leads have no authority to hire, transfer, suspend, lie off, recall or discharge employees. The Leads, however, are involved in the Employer’s disciplinary process. Specifically, Nunez testified that in managing and reviewing the activities of the Tool Room employees per the Tool Room Leads’ job description, the Tool Room Leads are responsible for their shift employees’ adherence to the Employer’s Rules of Conduct. The Leads are expected to identify the need for employee disciplinary action, per the progressive disciplinary process outlined in the Rules of Conduct, as well as the coaching or training necessary to improve the employee’s conduct. The Leads are responsible for correcting behavior on the spot and if needed, they will recommend disciplinary action to Reyes who in turn discusses the matter with Nunez. For example, if an employee is not using the necessary personal protective equipment, the Lead is responsible for correcting the employee immediately and if the behavior continues, the Lead is expected to raise the issue and make a disciplinary recommendation to Reyes. The Lead’s recommendation to issue discipline will be wholly relied upon. If a verbal warning is necessary, without additional investigation by the Employer, the Lead will receive permission from Nunez and Reyes to issue the verbal warning. If a written warning is necessary, the Lead’s recommendation will likewise be relied upon. Human Resources will draft the written warning and the Lead will be responsible for issuing it to the employee. For more serious infractions which may require a suspension or discharge, the Lead

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<sup>6</sup>The record does not reflect the specific percentage of time Tool Room Leads spend performing rank and file work. However Nunez testified that they will not be performing rank and file work to the degree that they had before because they will spend “much more of their time leading and directing than actually performing work.”

is responsible for bringing the infraction to Reyes' attention which will ultimately result in Nunez and Human Resources performing an investigation.

#### **IV. Legal Analysis**

In the instant case, the Employer asserts that the Tool Room Leads are supervisors under Section 2(11) of the Act and therefore they must be excluded from the petitioned-for unit. Section 2(11) of the Act defines "supervisor" as:

Any individual having the authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

Pursuant to this definition, individuals are statutory supervisors if (1) they hold the authority to engage in any one of the twelve supervisory functions (e.g., "assign" and "responsibly to direct") listed in Section 2(11); (2) their "exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment;" and (3) their authority is held "in the interest of the employer." *Oakwood Healthcare, Inc.*, 348 NLRB 686, 687 (2006), citing *Kentucky River Community Care*, 532 U.S. 706, 713 (2001). Supervisory status may be shown if the putative supervisor has the authority either to perform a supervisory function or to effectively recommend the same. The burden to prove supervisory authority is on the party asserting it. *Oakwood Healthcare*, 348 NLRB at 687. See also *Kentucky River*, 532 U.S. at 711-12. A lack of evidence is construed against the party asserting supervisory status. The Board is reluctant to confer supervisory status too broadly because an employee deemed to be a supervisor loses the protection of the Act. See *Vencor Hospital-Los Angeles*, 328 NLRB 1136, 1138 (1999).

I find the record establishes with requisite specificity that the Tool Room Leads are supervisors within the meaning of Section 2(11) of the Act and therefore excluded from the bargaining unit. Specifically, I find that as of February 23, 2014, the Tool Room Leads have the authority to assign and responsibly direct the employees on their shifts using independent judgment in the interest of the Employer. In addition, I find that the Tool Room Leads have authority to effectively recommend promotions, rewards and discipline to the Employer concerning the employees on their shifts. The fact that the Tool Room Leads have not yet exercised all the duties assigned to them is not dispositive of the issue. Rather, Board precedent establishes that the possession of authority consistent with any of the indicia of Section 2(11) is sufficient to establish supervisory status, even if this authority has not yet been exercised. *Fred Meyer Alaska*, 334 NLRB 646, 649 fn. 8 (2001); *Pepsi-Cola Co.*, 327 NLRB 1062, 1064 (1991). In so finding I note that the three Tool Room Leads accepted their positions in writing prior to February 23, 2014 and began working in those positions when the Employer implemented the change from three to four shifts beginning February 23, 2014.

The Petitioner argues that the Employer did not meet its burden in establishing the supervisory status of the Tool Room Leads because its evidence consisted solely of conclusory statements. *Sears Roebuck & Co.* 304 NLRB 193 (1991). Contrary to the Petitioner, I find that the record specifically demonstrates that the Tool Room Leads exercise independent judgment in directing other employees and assigning work to the employees. In this regard, Nunez, as the Production Superintendent charged to oversee the entire Production Department to include its five subdivisions, provided specific examples of how the Leads integrate their knowledge of die preparation deadlines, project complexity, employee skill level, resources available and competing priority work orders to make work assignments during a shift. Based on shifting conditions such as on-sight customer visits or equipment breakdown, the Lead must reassign work throughout the shift. In reassigning work, Leads must continuously assess factors with respect to priorities, worker skill capabilities and the overall production schedule while maintaining efficiency levels. The record shows that in assigning and responsibly directing its shift employees, the Leads do so independently given that no department supervisor is present during their respective shifts. These duties and authority are analogous to those granted to Maintenance Leads which have exercised such duties and authority over a period of years.

I further find that upon assuming the duties as Tool Room Leads on February 23, 2014, the Employer conferred upon the Leads the authority to effectively recommend merit wage increases. The record reflects that the Leads are required to evaluate the employees' daily Time Usage Sheets to ensure efficiency levels are met. Armed with the review of the Time Usage Sheets and daily interaction with its shift employees, the Leads will be responsible for completing employee performance appraisals. While the authority to "evaluate" employees is not one of the primary indicia of supervisory status set forth in Section 2(11) of the Act, the Board has consistently held that employees are supervisors if they evaluate other employees, and those evaluations are directly related to personnel actions such as merit raises or promotions. See e.g. *General Telephone Co. of Michigan*, 112 NLRB 46 (1955) (Board found the evaluations prepared by service assistants were given "substantial weight" in determining whether changes in job status should be made). Here, the record reflects with specificity the criteria in which employees will be rated by the Leads and the evaluations include a section to recommend a wage increase. The Employer's recurring reliance on the Leads stems from the fact that they are the only individuals who review on an ongoing daily basis the quality of work and skills of the Tool Room employees working under them. Nunez testified that based on the Lead's rating of the employees' performance, a final determination on a merit wage increase will be made. The record reflects that Maintenance Leads, whose supervisory duties and responsibilities served as a basis for the newly created Tool Room Lead positions, have exercised this authority and that both wage increases for good performance and corrective action for poor performance were issued based upon a Lead's evaluation.

Finally, I find that the Tool Room Leads can initiate and effectively recommend discipline. The record reflects that the Employer is guided by a detailed progressive disciplinary process as outlined in the Employer's Rules of Conduct. Because the Tool Room Leads, like the Maintenance Leads, are the sole supervisory authority in their department for three out of the four shifts, they are responsible for making on-the-spot corrections to safety, production or rule violations by verbally counseling the employee engaged in the transgression. Similarly, Leads in both the Maintenance and Tool Departments have authority to recommend further disciplinary

action which is relied upon by the Employer in issuing any subsequent discipline. Specifically, Nunez testified that the Lead's recommended disciplinary action will be relied upon by the Employer given the autonomy of the Tool Room and the Employer's necessary reliance on the Lead's account of the particular infraction. *Progressive Transportation Services, Inc.*, 340 NLRB 1044, 1047 (2003) (Board found the deck lead supervisor retained ability to effectively recommend discipline by raising potential disciplinary issues to the operations manager who ultimately decided the appropriate level of discipline).

In addition to the Tool Room Leads having met the primary indicia of supervisory status, the Leads also possess several secondary indicia of supervisory authority including differences in terms and conditions of employment (i.e. wages), attendance at management meetings, and receipt of benefits not granted to other employees. *Id.*; *Dean & Deluca New York, Inc.*, 338 NLRB 1046 (2003). Here, the Tool Room Leads receive additional compensation than shift employees, will be required to wear a light blue shirt to designate them as supervisors and are granted a shared office space with access to a computer and company email which rank and file tool room employees are not allowed to utilize. Lastly, Leads attend meetings designated for other supervisor and management personnel.

Based on the foregoing, I find that the Employer, as the party asserting supervisory status, has met its burden in proving that the Tool Room Leads have the authority to assign and responsibly direct other employees as well as evaluate employees, effectively recommend merit wage increases and discipline, and utilize independent judgment in the execution of such functions. *Kentucky River Community Care, Inc.*, 532 U.S. at 713 (2001). Therefore, I find that the Tool Room Leads are supervisors within the meaning of Section 2(11) of the Act. Accordingly, I will exclude the Tool Room Leads from the unit.

## **V. 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 they wish to be represented for purposes of collective bargaining by **Teamsters, Local Union No. 781**. 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.

### **A. 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.

## **B. List of 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 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 **March 26, 2014**. 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.nlr.gov](http://www.nlr.gov),<sup>7</sup> by mail, or by facsimile transmission at 312-886-1341. 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 e-mail, in which case no copies need be submitted. If you have any questions, please contact the Regional Office.

## **C. 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*

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<sup>7</sup> To file the eligibility list electronically, go to [www.nlr.gov](http://www.nlr.gov) and select the **E-Gov** tab. Then click on the **E-Filing** link on the menu, and follow the detailed instructions.

*Demonstration Services*, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

## **VI. 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. This request must be received by the Board in Washington by **April 2, 2014**.

DATED at Chicago, Illinois this 19<sup>th</sup> day of March, 2014.

/s/ *Peter Sung Ohr*

Peter Sung Ohr, Regional Director  
National Labor Relations Board  
Region 13  
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