

FedEx Freight, Inc. and International Brotherhood of Teamsters, Local 107, Petitioner. Case 04–RC–134614

March 24, 2015

DECISION AND CERTIFICATION OF REPRESENTATIVE

BY MEMBERS HIROZAWA, JOHNSON,
AND MCFERRAN

The National Labor Relations Board, by a three-member panel, has considered objections to an election held October 14, 2014, and the hearing officer's report recommending disposition of them. The election was conducted pursuant to a Decision and Direction of Election. The tally of ballots shows 26 for and 18 against the Petitioner, with 1 challenged ballot, an insufficient number to affect the results.

The Board has reviewed the record in light of the exceptions and briefs, has adopted the hearing officer's findings¹ and recommendations, and finds that a certification of representative should be issued.

¹ The Employer has 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 incorrect. *Stretch-Tex Co.*, 118 NLRB 1359, 1361 (1957). We have carefully examined the record and find no basis for reversing the findings. In adopting the hearing officer's credibility resolutions in connection with Objection 1, however, we find it unnecessary to rely on his inferences that: (1) Gail Raymond's reaction and response to the incident was "low-key, disproportionate, and inapt to the alleged bedlam"; and (2)

CERTIFICATION OF REPRESENTATIVE

IT IS CERTIFIED that a majority of the valid ballots have been cast for International Brotherhood of Teamsters, Local 107, and that it is the exclusive collective-bargaining representative of the employees in the following appropriate unit:

Included: All full-time and regular part-time road drivers and city drivers employed by the Employer at its Croydon, Pennsylvania facility;

Excluded: All other employees, dockworkers, mechanics, office clerical employees, guards and supervisors as defined in the Act.

union observer Matt Lieblang's apology to her that "things got sloppy" was a "mild act of contrition" that "does not suggest the intensity of an eight-minute confrontation."

If the events relating to Objection 1 occurred as Raymond testified—i.e., that several union supporters interfered with her ability to exit the Employer's driveway and one repeatedly pounded on her passenger-side window to get her to honk her horn in support of the Union—Member Johnson would find such conduct objectionable. The hearing officer discredited Raymond's testimony, however, and the clear preponderance of the evidence does not show that his credibility findings are incorrect. Member Johnson further notes that this was an isolated incident; that the Union mitigated any alleged misconduct by apologizing to Raymond; and that, in disseminating information about what occurred, the Employer distorted the seriousness of the incident by discussing it at employee meetings where it also showed employees a video of completely unrelated picket-line violence, thus linking the incident to far more egregious misconduct.

In the absence of exceptions, we adopt pro forma the hearing officer's recommendation to overrule Objection 4.