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**Aramark Uniform & Career Apparel, LLC and Teamsters Local Union No. 731, Petitioner and National Production Workers Union Local 707, Intervenor. Case 13–RC–176276**

September 9, 2016

ORDER

BY CHAIRMAN PEARCE AND MEMBERS MISCIMARRA AND MCFERRAN

The Intervenor’s request for review of the Acting Regional Director’s Report on Objections and Certification of Representative is denied as it raises no substantial issues warranting review.<sup>1</sup>

Dated, Washington, D.C. September 9, 2016

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Mark Gaston Pearce, Chairman

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Philip A. Miscimarra Member

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Lauren McFerran, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD  
APPENDIX

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REPORT ON OBJECTIONS AND CERTIFICATION OF REPRESENTATIVE

Pursuant to Section 102.69 of the Board’s Rules, the undersigned has considered the objections filed by the Intervenor regarding the election held on June 6, 2016, in the above-captioned matter.

For the reasons set forth below, I have determined that Intervenor has not complied with the requirements of Section 102.69(a) of the Board’s Rules and Regulations with respect to the filing of its objections. Therefore, pursuant to Section

<sup>1</sup> This case involves the Board’s final rule on representation case procedures, with which Member Miscimarra disagrees for the reasons expressed in his and former Member Johnson’s dissenting views to the final rule. 79 Fed. Reg. 74308, at 74430–74460 (Dec. 15, 2014) (dissenting views of Members Miscimarra and Johnson). In the instant case, Member Miscimarra agrees with the denial of the Intervenor’s Request for Review.

102.69(c)(1)(i) of the Board’s Rules, I have decided to overrule the Petitioner’s Objections and to certify the results of the election.

THE ELECTION AND TALLY OF BALLOTS

Based on a petition filed on May 16, 2016, by Teamsters Local Union No. 731 (Petitioner), and pursuant to a stipulated election agreement executed by Petitioner, Aramark Uniform & Career Apparel, LLC (Employer), and National Production Workers Union Local 707 (Intervenor), and approved by the undersigned on May 23, 2016, an election was conducted on June 6, 2016 in the following unit:

Included: All full-time and regular part-time production employees employed by the Employer at its facility currently located at 7650 South Grant Street, Burr Ridge, Illinois.

Excluded: All quality assurance employees, all employees covered by other collective-bargaining agreements, including maintenance employees, drivers, merchandise control clerks, driver-dock employees, office clerical employees and guards, professional employees and supervisors as defined in the Act.

The tally of ballots<sup>1</sup> showed that of the approximately 94 eligible voters, 38 cast ballots for Petitioner, 29 cast ballots for Intervenor, and zero cast ballots against representation. There were no void ballots and no challenged ballots. A majority of valid votes counted were cast for Petitioner.

The Objections

On June 13, 2016, the Intervenor timely filed objections to conduct affecting the results of the election, a copy of which is attached as Appendix A. The Intervenor did not file an offer of proof or certificate of service that the objections were served on the other parties.<sup>2</sup> The Union’s objections state:

1. The Employer failed to block the supervisory staff from viewing employees as they went into the polling place, as they had done in previous elections, wherein paper was applied to the windows directly adjacent to the polling place entrance in order to insure privacy - this intimidation caused union supporters not to vote.
2. Teamster truck drivers were allowed to campaign on the premises of the employer thereby giving employees the impression of overwhelming Teamster support.
3. These and other activities had the effect of discouraging many employees from voting as evidenced by the low turnout—27 employees never even attempted to vote.

Intervenor asserts that the above-alleged objectionable conduct interfered with the June 6, 2016 election, that the election should be set aside, and that a rerun election should be conducted.

<sup>1</sup> A corrected tally of ballots issued on June 9, 2016, which corrected the date of issuance from May 26, 2016 (before the election) to June 6, 2016 (the day of the election and the ballot count). There were no other corrections.

<sup>2</sup> The Intervenor filed its offer of proof in support of the objections on June 20, 2016. No request for extension was requested, nor was any good cause for such delay offered.

### Discussion

Within 7 days after the tally of ballots has been prepared, any party may file objections to the conduct of the election or to conduct affecting the results of the election. The Intervenor timely filed its objections in the instant matter on June 13, 2016, 7 days after the election on June 6, 2016 and the issuance of the tally of ballots.

On December 15, 2014, the Board adopted a final rule<sup>3</sup> to modify in certain respects the procedures applicable to the processing of representation cases. These changes went into effect on April 14, 2015, and have applied to all representation cases filed on or after that date. The final rule includes, among other things, changes to both Board procedure and the issuance of decisions involving postelection matters. Specifically with respect to postelection matters, under the final rule, Section 102.69(a) of the Board's Rules and Regulations provides that when filing objections to an election, a party *must* also include (1) a short statement of the reasons for the objections, and (2) an offer of proof in support of the objections which identifies its witnesses and summarizes their testimony. A party filing objections *must* also serve a copy of the objections, but not the offer of proof, on all other parties and include a certificate of service when filing the objections. Upon a showing of good cause, the Regional Director may extend the time for filing the offer of proof.

The Intervenor did not file an offer of proof with its objections, and did not submit any request for an extension of time to file its offer of proof with good cause shown why such an extension was needed. Moreover, the Intervenor did not serve a

copy of the objections on Employer or Petitioner and did not include a certificate of service with its objections, certifying that it served a copy of its objections on Petitioner and Employer. Based on (1) the Intervenor's failure to include the requisite offer of proof with its objections, and (2) the Intervenor's failure to serve a copy of the objections on all parties and include a certificate of service with its objections, I overrule Intervenor's objections in their entirety.

### Conclusion

In summary, I conclude that the Intervenor has not complied with the requirements of Section 102.69(a) with respect to the filing of its objections and, thus, further consideration of the objections is unwarranted. Therefore, pursuant to Section 102.69(c)(1)(i) of the Board's Rules and Regulations, I overrule Intervenor's objections in their entirety and issue the following Certification of Representative.

### CERTIFICATION OF REPRESENTATIVE

IT IS HEREBY CERTIFIED that a majority of valid ballots have been cast for Teamsters Local Union No. 731, 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 production employees employed by the Employer at its facility currently located at 7650 South Grant Street, Burr Ridge, Illinois.

Excluded: All quality assurance employees, all employees covered by other collective-bargaining agreements, including maintenance employees, drivers, merchandise control clerks, driver-dock employees, office clerical employees and guards, professional employees and supervisors as defined in the Act.

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<sup>3</sup> 79 Fed. Reg. 74308.