

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

McLAREN MACOMB
Employer

and

Case 07-RC-243228

LOCAL 40, RN STAFF COUNCIL, OFFICE AND
PROFESSIONAL EMPLOYEES
INTERNATIONAL UNION (OPEIU) AFL-CIO
Petitioner

ORDER

The Employer's Request for Review of the Regional Director's Decision and Certification of Representative is denied as it raises no substantial issues warranting review.¹

JOHN F. RING, CHAIRMAN

MARVIN E. KAPLAN, MEMBER

WILLIAM J. EMANUEL, MEMBER

Dated, Washington, D.C., July 2, 2020.

¹ Under the version of Sec. 102.67(c) of the Board's Rules and Regulations in effect at the time of the election in this case, a pre-election request for review did not operate as a stay of any action by a Regional Director unless specifically ordered by the Board. Accordingly, in denying review with respect to Objections 2 and 9, we note that the Employer's pre-election request for review in this case of the Regional Director's inclusion of certain classifications of allegedly technical employees in the appropriate, petitioned-for unit of service and maintenance employees did not stay their inclusion in the unit. The Board agent conducting the election therefore did not allow the ballots of all the employees in those disputed classifications to be challenged based solely on their inclusion in the unit, even though the Board had not ruled on the request for review by the time of the election. We observe, however, that the failure to provide for such disputed ballots to be segregated and impounded pending the Board's decision on the underlying unit-placement issues raised many of the concerns that led the Board to adopt changes to its representation-case procedures. See 84 Fed. Reg. 69524 (Dec. 18, 2019). Those amendments did not take effect until May 31, 2020, however. 85 Fed. Reg. 17500 (Mar. 30, 2020).

In denying review with respect to Objection 6, we also rely on *Dart Container*, 277 NLRB 1369 (1985). We do not rely, however, on *Fresenius USA Manufacturing, Inc.*, 352 NLRB 679 (2008), a two-member Board decision.