

Date: November 5, 2020  
To: Executive Secretary of the National Labor Relations Board  
From: Shannon Bono, Petitioner  
Subject: CASE 19-RD-264004

The Regional Director erred in determining there is a contract bar. Neither party produced a duly signed Agreement.

IBEW Local 77 did not litigate by which contract they are bound during the decertification hearings because that issue is to be decided in January. By the Regional Director's decision, the NLRB already made a determination without all testimony or evidence. There is still no Collective Bargaining Agreement duly signed by both parties (employer and union).

A single employer can opt out of being party to the Master Trades Section Collective Bargaining Agreement. Therefore, it seems appropriate that a single employer's OPEIU Local 8 bargaining unit members can decertify. If an employer decides to decertify, they are not required to receive approval from all Master Trades Section employers. In addition, if a single employer opts out, it does not dissolve participation by all employers. If the OPEIU Local 8 members employed by IBEW Local 77 cannot decertify, we will be held hostage by the other employers' bargaining unit members and remain without representation indefinitely or until the employer opts out in 2023. The Petitioner contends IBEW Local 77 has always been a single employer unit. Each Master Trades Section Agreement is signed individually by each employer. There is no collective/group Master Trades Agreement (each is an individual, stand-alone Agreement).

Negotiations for the Master Trades Section did not begin until April 1, 2019 (Agreement expired March 31, 2019). The Agreement states, "This Agreement shall be in full force and effect until March 31 and shall continue in effect from year to year thereafter unless either party gives notice, in writing, at least ninety (90) days prior to any expiration or **MODIFICATION DATE** (emphasis added) of its desire to terminate or modify such Agreement..." The first expiration date was extended/modified which means Mr. Cunningham's January 11, 2019 formal notification met the 90-day requirement.

Ms. Mode's states she would not meet with the employer because the employer never provided a list of outstanding side agreements the employer wanted to discuss. Hence, it seems reasonable to believe the employer wanted to discuss all Letters/Memorandums of Agreement. Therefore, no list was provided outlining specific ones. Ms. Mode did not want to negotiate the Letters of Agreement, which are mandatory subjects of bargaining, because she was concerned about two (2) that involve the President of OPEIU Local 8 and allows IBEW Local 77 to dissolve the Office Manager position and assign Building Facilitator duties to a Business Rep.

The Regional Director's ruling is that an employer is bound by the Master Trades Section Agreement even if the employer does not sign. Therefore, if the individual employer signature is not required, Suzanne Mode had an opportunity, and should have met with the employer to negotiate the Letters/Memorandums of Agreement. To contend she did not meet due to no "list" is incredulous and frivolous. Her refusal to meet caused the employer to implement an Agreement on October 7, 2019.

If you review a 2014 Trade Section Offices roster (attached) and Union Exhibit 19, it appears the following employers are no longer members of the Master Trades Section:

- APWU Seattle Local (Postal Workers)
- Cement Masons and Plasterers Local 528
- Cement Masons JATC
- IUOE Local 286 (Operating Engineers)
- Seattle Labor Temple Association

How were these employers allowed to opt out/decertify without impacting the entire Master Trades Section employers or bargaining unit? Again, they are each a single/stand-alone employer/unit. In fact, it was the testimony of Mr. Hutchins that one of the employers left the bargaining table “during negotiations” and never returned. Thus, a single employer can opt out, even without meeting the 90-day timeline. Again, the issue is to be determined January 2021.

Page 4 of the decision discusses a “minimum” wage scale. The Master Trades Section Agreement has a Letter of Agreement stating, “(3) Only freezes of current compensation levels will be considered, not cutbacks.” However, Ms. Mode testified that in 2014, when “wages only” were to be bargained, she allowed each individual, stand-alone employer the opportunity to cut wages if the current insurance plan was maintained. This action contradicts the Letter of Agreement. IBEW Local 77 was generous enough to provide their employees with an HRA to offset the impacts.

There was more than the required number of individuals who signed the petition. It is unreasonable for the NLRB to decide that 30% of all OPEIU Local 8 bargaining unit members comprising the Master Trades Section must sign the petition before a vote can be taken.

Petitioner Exhibits 5-9 and Union Exhibit 16 specify either 15 or 16 individuals. It does not list the number that encompasses all OPEIU Local 8 members working for Master Trades Section employers.

The OPEIU Local 8 members employed by IBEW Local 77 are separate from the existing bargaining unit. While some provisions of the Master Trades Section apply, the members employed by IBEW Local 77 have a separate pension plan, HRA, insurance plan, longevity pay, retiree medical, etc. There were no position descriptions introduced into evidence to show the job functions/duties are the same for all job titles for all employers within the Master Trades Section. Each employer hires and requires duties from their employees applicable to their specific union.

The purpose of the NLRB is to protect union members. Section 2. (a) states, in part, “...responsibility of the Federal Government to protect employees’ right to organize, choose their own representatives,....” Normally the NLRB and union protect members against the employer. However, with Suzanne Mode’s continued disdain toward some OPEIU Local 88 bargaining unit members employed by IBEW Local 77 requires protection against the union that does not equally represent all members. Members did not testify regarding their desire to decertify due to fear of retaliation and intimidation by OPEIU Local 8 if the NLRB would not allow a vote. With the Regional Director’s decision, their decision was a wise one.

IBEW Local 77 did not sign the Agreement. OPEIU Local 8 did not sign the implemented Agreement. Therefore, the OPEIU Local 8 members employed by IBEW Local 77 have been without a duly signed Agreement since April 1, 2019. It should be ruled there is no contract bar.

Again, which Agreement applies will be decided in January 2021. Therefore, at the very least, we should be allowed to vote, with the votes impounded. However, with the animus Suzanne Mode feels toward a majority, we felt the votes should be counted immediately. The OPEIU Local 8 Business Manager's duties and responsibilities are to represent ALL dues paying members. If the NLRB will not protect us, what avenue can we take from here? In addition, the Regional Director never stated when the Master Trades Agreement would be effective. Is it April 1, 2019 or the date of his decision?

We laid out a crystal-clear case for why we should decertify (whether a contract bar or not) and there is no reason why we should not be allowed to vote on it. Why does Local 8 want to keep us? The vote would speak for itself. We want a union that will represent us and engage with our employer.

Based on the NLRB's decision, the bargaining unit is wide-open for all types of retaliation and disparate treatment for the next three (3) years from both OPEIU Local 8 and the President of Local 8. Even if there is retaliation, we have no course of action to take that will protect us. I questioned John Fawley before the decertification hearing, because of an incident involving an individual who signed the petition, and he assured me the NLRB is unbiased. However, the ruling feels otherwise.

OPEIU Local 8 continues to file charges and amended charges. If IBEW Local 77 is not a single, stand-alone employer, why are OPEIU Local 8's charges and amended charges not filed against the Master Trades Association?

Please reconsider the decision of the Regional Director. Allow the matter to be appropriately heard in January 2021, with testimony from both the union and employer regarding which Agreement is valid. The issues/matters between the employer and union are separate and distinct from our desire to decertify. The Petitioner contends that at this time there is no Collective Bargaining Agreement contract bar and an election ought to be conducted accordingly.

## Trade Section Offices - 2014

Amalgamated Transit Union Local 587
AFT Washington
APWU Seattle Local
Bakery, Confectionary and Tobacco Workers Local 9
Cement Masons and Plasterers Local 528
Cement Masons JATC
CWA Local 7800
General Teamsters Local 174
Hod Carriers and General Laborers Union Local 242
International Alliance of Theatrical Stage Employees Local 15
International Association of Heat and Frost Insulators Local 7
IBEW Local 46
IBEW Local 77
IBEW Local 89
International Longshoremen's and Warehousemen's Union Local 52
Ironworkers Local 86
International Union of Elevator Constructors Local 19
IUOE Local 286
Laborers Local 440
Laborers International Union of North America
MLK CLC - office
MLK CLC - field
Northwest Regional Organizing Coalition
Pacific NW Ironworkers Apprenticeship & Training
Pile Drivers & Divers Local 196
Puget Sound Electrical Apprenticeship and Training Trust
REBOUND - office
REBOUND - field
Seattle Area Plumbing and Pipefitting JATC
Seattle Heat & Frost Insulators & Allied Workers JATC
Seattle King County Building and Construction Trades Council
Seattle Labor Temple Association
Sprinkler Fitters and Apprentices Local 699
Teamsters Local 174
Teamsters Local 763
Washington and Northern Idaho District Council of Laborers
Washington State Association of the UA
Washington State Labor Council

## CERTIFICATE OF SERVICE

The foregoing Appeal in Case 19-RD-264004 was served on the following by email on November 5, 2020:

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