

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

DETRIX CORPORATION
Employer

and

Case 08-RC-269611

UNITED STEEL, PAPER AND FORESTRY,
RUBBER, MANUFACTURING, ENERGY,
ALLIED INDUSTRIAL AND SERVICE
WORKERS INTERNATIONAL UNION,
AFL-CIO-CLC
Petitioner

ORDER

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

¹ In denying review of the Acting Regional Director's direction of a mail-ballot election, we note that the direction of a mail-ballot election is consistent with the concerns articulated in *Aspirus Keweenaw*, 370 NLRB No. 45 (2020), which sets forth the guidelines and parameters applicable to determining the propriety of a mail-ballot election under the current circumstances of the Covid-19 pandemic. Under those guidelines, a Regional Director does not abuse his or her discretion by directing a mail-ballot election if the 14-day trend in the number of new confirmed cases of Covid-19 in the county where the facility is located is increasing, or the 14-day testing positivity rate in the county where the facility is located is 5 percent or higher. See *Id.*, slip op. at 5, 8. Further, "the 14-day period should be measured from the date of the Regional Director's determination, or as close to that date as available data allow." *Id.*, slip op. at 5, fn. 20. At the time of the Acting Regional Director's decision, the 14-day trend of cases in Ashtabula County, Ohio, where the Employer's facility is located, was increasing, and the 14-day testing positivity rate was over 5 percent.

In addition, the Employer has made an unsubstantiated claim that the Acting Regional Director delayed the decision "until a two-week period of Covid-19 results satisfied the Director's desire of holding a mail ballot election." On careful examination of her decision and the relevant State and county Covid-19 positivity rates, we are satisfied that the Employer's contention is without merit.

Chairman McFerran agrees to deny review of the Acting Regional Director's mail-ballot determination for the reasons given in her separate opinion in *Aspirus*. She further agrees, however, that setting aside the election at this point would be inefficient and unfair to the unit employees, and that, even under the majority opinion in *Aspirus*,

LAUREN McFERRAN,

CHAIRMAN

MARVIN E. KAPLAN,

MEMBER

JOHN F. RING,

MEMBER

Dated, Washington, D.C., March 17, 2021.

the Acting Regional Director's decision should be affirmed based on the statistics set out above.