

Bellingham, MA, East Windsor,
and Plainville, CT, Lebanon, NH
and South Portland, ME

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

DUNKIN' DONUTS NORTHEAST
DISTRIBUTION CENTER, INC.

Employer

and

Case 1-RC-22303

INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, LOCAL 25

Petitioner

DECISION, ORDER, AND DIRECTION OF SECOND ELECTION

The National Labor Relations Board has considered objections to an election held March 31 and April 1, 2009, and the hearing officer's report recommending disposition of them. The election was conducted pursuant to a Stipulated Election Agreement. The tally of ballots shows 87 ballots cast for and 102 ballots cast against the Petitioner. There were no challenged ballots.

No exceptions have been filed to the hearing officer's report within the time provided. Accordingly, the Board adopts the hearing officer's findings and recommendations.

IT IS ORDERED that the election conducted on March 31 and April 1, 2009 be set aside, and that a new election be conducted.

DIRECTION OF SECOND ELECTION

A second election by secret ballot shall be conducted among the employees in the unit found appropriate whenever the Regional Director deems appropriate. The Regional Director shall direct and supervise the election, subject to the Board's Rules and Regulations. Eligible to vote are those employed during the payroll period ending immediately before the date of the Notice of Second Election, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike that began less than 12 months before the date of the first election and who retained their employee status during the eligibility period and their replacements. *Jeld-Wen of Everett, Inc.*, 285 NLRB 118 (1987). Those in the military services may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the payroll period, striking employees who have been discharged for cause since the strike began and who have not be rehired or reinstated before the election date, and employees engaged in an economic strike that began more than 12 months before the date of the first election and who have been permanently replaced. Those eligible shall vote whether they desire to be represented for collective bargaining by International Brotherhood of Teamster Local No. 25.

To ensure that all eligible voters have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses that may be used to communicate with them. *Excelsior Underwear*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Co.*, 394 U.S. 759 (1969). Accordingly, it is directed that an eligibility list containing the full names and addresses of all the eligible voters must be filed by the Employer with the Regional Director within 7 days from the date of Notice of Second Election. *North Macon Health Care Facility*, 315 NLRB 359 (1994). The Regional Director shall make the list available

to all parties to the election. No extension of time to file the list shall be granted by the Regional Director except in extraordinary circumstances. Failure to comply with this requirement shall be grounds for setting aside the election if proper objections are filed.

Dated, Washington, D.C., July 23, 2009.

By direction of the Board:

Margaret Rafferty

Section 108.20 of the Board's Rules concerning the posting of election notices. Your attention is directed to the attached copy of that Section.

Associate Executive Secretary

ATTACHMENT

###

Section 103.20 Posting of Election Notices.

(a) Employers shall post copies of the Board's official Notice to Election in conspicuous places at least three (3) full working days prior to 12:01 a.m. of the day of the election. In elections involving mail ballots, the election shall be deemed to have commenced the day the ballots are deposited by the Regional Office in the mail. In all cases, the notices shall remain posted until the end of the election.

(b) The term "working day" shall mean an entire 24-hour period excluding Saturdays, Sundays, and holidays.

(c) A party shall be estopped from objecting to nonposting of notices if it is responsible for the nonposting. An employer shall be conclusively deemed to have received copies of the election notice for posting unless it notifies the Regional Office at least five (5) working days prior to the election that it has not received copies of the election notice.

(d) Failure to post the election notices as required herein shall be grounds for setting aside the election whenever proper and timely objections are filed under provisions of Section 102.69(a).

Dated, Washington, D.C., June 30, 1987 by
direction of the Board

National Labor Relations Board
Lester A. Heltzer, Executive Secretary

###