

LETTER DECISION
BCLRB No. B334/95

September 1, 1995

To Interested Parties:

Re: W.G. Enterprises Ltd. (Willy's Wholesale and Distribution
~~of Foods) (the "Employer") and Teamsters Union Local~~
No. 31 (the "Union")
(Application for Certification - Case No. 27952)

1 At the certification hearing on August 29, 1995, the Board ordered an Industrial Relations Officer (the "IRO") to conduct a further investigation of the Union's membership cards to ensure their compliance with Regulation 3(a) which provides as follows: "a membership card must be signed and dated at the time of signature". At that hearing, the Board also ordered the IRO to tentatively schedule a representation vote for September 1, 1995 in order to protect the 10 day time limit for votes in the event the re-investigation process took some time.

2 As requested, the IRO conducted a further investigation of the membership cards to ensure their compliance with Regulation 3(a). The IRO report provides as follows:

At approximately 10:30 a.m. August 21, 1995 blank membership cards were picked up from the Teamsters Local 31 office in Prince George. A meeting was called for 3 p.m. that same day. (one shift at W.G. Enterprises Ltd. ends at 2:30 p.m.) The person who signed as witness on all the membership cards filled in the date and company name on three cards at the beginning of the meeting. Membership cards were completed and witnessed by all those present, with the same person that dated the three cards at the beginning of the meeting dating the remaining cards during the meeting. The meeting ended at approximately 3:45 p.m. The cards were delivered directly to the union office. One additional card was duly completed that evening. An application for certification was completed and faxed to the Labour Relations Board. The application was dated and time stamped at 8:30 a.m. August 22, 1995.

On the basis of my investigation, I am satisfied that the membership cards were signed and dated at the time of signature in accordance with Regulation 3(a).

The IRO's report was forwarded to the parties for their submissions. The Employer filed a submission; the Union did not. In the Employer's submission the IRO report established non-compliance with Regulation 3(a) because the "officer states that the dates were filled in both some time prior to and some time after the employees signed the cards" (i.e. there was a gap in time between the signature and date on the cards) and this does not satisfy the requirement to be signed and dated at the time of signature. The Employer also notes that it is unclear when the witness' signature was affixed to the cards.

3 In order to provide the parties with my decision in this matter prior to the tentatively scheduled representation vote, and in order to avoid the necessity for that vote, my reasons for decision are brief.

4 In my view, the mischief addressed by Regulation 3(a) is the avoidance of the 90 day time limit for the use of membership cards (Regulation 3(c)) through a practice of signing membership cards, leaving them undated, and at some later date affixing dates to the cards which will enable cards gathered over a lengthy period to be used to support an application for certification. The statutory language in Regulation 3(a) should be interpreted with a view to this purpose.

5 Applying this approach, I am satisfied that membership cards which are signed (in this case by both the members and the witness) and dated with that day's date during a 45 minute organizing meeting meet the requirements of Regulation 3(a) to be "signed and dated at the time of signature." I conclude that it is not fatal to the validity of the cards that some were dated just prior to or just after the signatures were affixed. The cards were both signed and dated during the 45 minute meeting and in view of the purpose of and language used in Regulation 3(a) the procedure used to sign these cards satisfies the statutory requirements.

6 As the Employer raised no objections to the application for certification, the Board is now in a position to adjudicate it. The confidential information on the Board's file indicates that the Union has sufficient membership support for automatic certification. Certification is hereby granted. The vote tentatively scheduled for 3:00 p.m. today is hereby cancelled.

LABOUR RELATIONS BOARD

JOAN GORDON
VICE-CHAIR

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