

EMPLOYMENT RELATIONS BOARD

OF THE

STATE OF OREGON

Case No. UC-29-05

(REVOCATION OF CERTIFICATION)

| | | |
|----------------------------|---|----------------|
| CITY OF HUNTINGTON, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | |
| |) | ORDER REVOKING |
| WESTERN COUNCIL OF |) | CERTIFICATION |
| INDUSTRIAL WORKERS, UNITED |) | |
| BROTHERHOOD OF CARPENTERS, |) | |
| |) | |
| Respondent. |) | |
| _____ |) | |

On November 16, 2004, in Case No. RC-49-04, the Western Council of Industrial Workers, United Brotherhood of Carpenters (Respondent), was certified as the exclusive representative of a bargaining unit of employees described as:

“All full-time and part-time employees of the City of Huntington, *excluding* management and supervisory and confidential employees.”

On July 29, 2005, the City of Huntington (Petitioner) filed a revocation petition under OAR 115-25-009, seeking to revoke the certification of Respondent. Attached to the filing was a petition signed by the City of Huntington employees stating that they no longer wished to be represented by the Respondent. The Petitioner states in relevant part that “* * * [o]n or about April 19, 2005 the three remaining bargaining unit members faxed the attached document to the [Petitioner’s] representative * * * and the [Respondent’s] representative.” Petitioner’s representative, Diana Moffat, represents that beginning in May 2005, she had numerous conversations with Respondent’s

representative in light of the employees' statement. She further states that on May 17, 2005, Respondent indicated that it had no further interest in representing these employees. However, Respondent did not provide that statement in writing.

On August 2, the elections coordinator served the petition on Respondent and requested that the Petitioner post notices of the petition in the workplace. Petitioner certified that the notices were posted on August 5, 2005.

In her August 2 letter, the elections coordinator explained that this Board would order revocation of certification if (1) no collective bargaining agreement was in effect, and (2) the labor organization disclaimed further interest in representing the bargaining unit. She further informed Respondent that Petitioner had represented in the petition that no contract was currently in place, and that Respondent had represented to Petitioner that it had no further interest in representing these employees. The elections coordinator stated to the Respondent that "[i]f this is the case, you need to furnish a disclaimer to this office." Respondent was given 14 days to dispute these representations or file objections to the petition. Under these circumstances, Respondent's failure to respond after notice is considered a disclaimer of representation.

DISCUSSION

In April, the bargaining unit members gave written notice to Respondent that they no longer wished to be represented. The document they signed indicates that many, if not all, of the original members are no longer employed by the Petitioner. When the Petitioner pursued this matter with the Respondent, Respondent verbally agreed to disclaim the bargaining unit, but did not follow through with a written disclaimer.

As summarized above, OAR 115-25-009 states:

"* * * The Board will order revocation only upon a showing that:

"(1) No collective bargaining agreement is in effect;
and

"(2) The labor organization disclaims further interest in representing the bargaining unit or the labor organization is defunct."

Based on the representations of the petition and Respondent's failure to deny those representations, we presume the Respondent's disclaimer of representation and the truth of the petition's representations that this bargaining unit is defunct.

Based on the foregoing, this Board issues the following order:

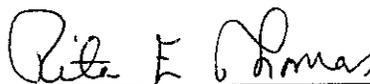
ORDER

The certification of Western Council of Industrial Workers, United Brotherhood of Carpenters, as exclusive representative of the above-referenced bargaining unit of employees of the City of Huntington is revoked.

DATED this 31 day of August 2005.



Paul B. Gamson, Chair



Rita E. Thomas, Board Member

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James W. Kasameyer, Board Member

This Order may be appealed pursuant to ORS 183.482.

*Board Member Kasameyer absent on date of signing.