

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

IN THE MATTER OF THE EMPLOYES OF :
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: Case No. PLRA-R-99-1-E
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VLASIC FARMS, INC. :
:

FINAL ORDER

On November 22, 1999, Vlastic Farms, Inc. (Employer) filed exceptions to a Nisi Order of Certification issued on November 2, 1999, by the Pennsylvania Labor Relations Board (Board), certifying the Comite de Trabajadores de Campbell Fresh (Workers Committee of Campbell's Fresh) (Union) as the exclusive bargaining representative of all full-time and regular part-time employes of the Employer involved in the production of mushrooms in Berks County, Pennsylvania and the maintenance of production facilities related thereto; and excluding managers, supervisors, clerical employes and employes covered by the National Labor Relations Act. On December 13, 1999, the Union filed its response to the Employer's exceptions.

In its exceptions, the Employer contends that the Nisi Order of Certification should be reversed because the Board does not have jurisdiction over the petitioned-for employes, arguing that the employes are "agricultural laborers" within the meaning of Section 3(d) of the PLRA and therefore are excluded from the PLRA's definition of "employee". The Employer also alleges that the certification of the Union should be reversed as a result of the Employer's charge of unfair practices in connection with the election, filed at Case No. PLRA-C-99-6-E (PLRA-R-99-1-E), alleging that the Union engaged in unfair labor practices in connection with the representation election, thereby requiring a new election.

The Employer's exceptions are without merit. In a recent case, the Commonwealth Court thoroughly addressed and rejected this Employer's argument that mushroom workers are "agricultural laborers" within the meaning of Section 3(d) of the PLRA and affirmed the Board's exercise of jurisdiction over mushroom workers. Vlastic Farms Inc. v. PLRB, 734 A.2d 487 (Pa. Cmwlth. 1999), pet. for allowance of appeal pending, 597 E.D. Allocatur Docket 1999; see also Blue Mountain Mushroom Company, Inc. v. PLRB, 735 A.2d 742 (Pa. Cmwlth. 1999), pet. for re-argument denied, September 28, 1999, pet. for allowance of appeal pending, 1072 M.D. Allocatur Docket 1999. The Employer raises no new arguments with respect to the jurisdictional issue in its exceptions. Accordingly, the Employer's contention that the petitioned-for employes are excluded from PLRA coverage must be rejected.

The Employer's exception regarding the charge of unfair practices at Case No. PLRA-C-99-6-E (PLRA-R-99-1-E) must also be dismissed. In that case, the Hearing Examiner issued a Proposed Decision and Order on September 6, 1999, concluding that the Union had not committed unfair labor practices within the meaning of the PLRA in connection with the representation election conducted by the Board in this case. The Employer filed exceptions to the Hearing Examiner's decision and the Board, by Final Order on this date, dismissed the Employer's exceptions and affirmed the Hearing Examiner's conclusion that no unfair labor practice was committed. Accordingly, the Union is appropriately certified as the exclusive bargaining representative pursuant to the representation election conducted on March 25, 1999, in which one hundred thirty-three (133) ballots were cast in favor of representation by the Union and seventy-six (76) ballots were cast against such representation.

After a thorough review of the exceptions and all matters of record, the Board shall dismiss the exceptions filed by the Employer and make the Nisi Order of Certification absolute and final.

ORDER

In view of the foregoing and in order to effectuate the policies of the Pennsylvania Labor Relations Act, the Board

HEREBY ORDERS AND DIRECTS

that the exceptions filed by the Employer in the above-captioned matter be and the same are hereby dismissed and the Nisi Order of Certification issued by the Board Representative be and the same is hereby made absolute and final.

SEALED, DATED and MAILED at Harrisburg, Pennsylvania, pursuant to Conference Call Meeting of the Pennsylvania Labor Relations Board, Members L. Dennis Martire and Edward G. Feehan, this twenty-first day of December, 1999. The Board hereby authorizes the Secretary of the Board, pursuant to 34 Pa. Code 95.81(a), to issue and serve upon the parties hereto the within Order.

JOHN MARKLE, JR., CHAIRMAN, DID NOT PARTICIPATE IN THE CONSIDERATION OR DECISION OF THIS CASE.