

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of :

GENERAL DRIVERS & DAIRY EMPLOYEES UNION, :
LOCAL NO. 563, AFFILIATED INTERNATIONAL :
BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, :
WAREHOUSEMEN & HELPERS OF AMERICA :

For a Referendum on the Question :
of an All-Union Agreement between :

VAN RYZIN MACHINE COMPANY :
Appleton, Wisconsin, Employer :

and GENERAL DRIVERS & DAIRY EMPLOYEES :
UNION, LOCAL NO. 563, AFFILIATED INTER- :
NATIONAL BROTHERHOOD OF TEAMSTERS, :
CHAUFFEURS, WAREHOUSEMEN & HELPERS OF :
AMERICA, Union. :

Case I
No. 15962 R-5377
Decision No. 11301-A

ORDER DETERMINING CHALLENGED BALLOTS

Pursuant to a Direction of Referendum issued by the Wisconsin Employment Relations Commission on September 21, 1972, the Commission conducted a referendum among all production and maintenance employees, including truck drivers of the Van Ryzin Machine Company, at its Appleton, Wisconsin facility, but excluding office clerical employees, sales employees, professional and managerial employees, guards and supervisors as defined in the Act, on December 12, 1972, to determine whether or not the required number of employees favored an "All-Union Agreement" between said Employer and said Labor Organization.

During the conduct of the referendum the Labor Organization challenged the right of Donald Van Ryzin and David Vanderlois to cast ballots in the referendum. Since the challenged ballots could affect the results of the referendum, the Commission conducted an investigation by Jos. B. Kerkman, Commissioner, on February 1, 1973.

The Commission having considered the results of the investigation and being fully advised of the premises is satisfied that Donald Van Ryzin, as son of the president and principal stockholder of the corporation, is not eligible to vote; and that it is not necessary to determine the eligibility of Mr. Vanderlois to vote inasmuch as the vote of David Vanderlois no longer has any bearing on the outcome of the referendum;

NOW, THEREFORE, it is

ORDERED

That the challenge to the ballot of Donald Van Ryzin be, and the same hereby is, sustained, and that his ballot shall remain sealed; and that the challenge to the ballot of David Vanderlois remain undetermined inasmuch as that ballot no longer will affect the outcome of the referendum.

Given under our hands and seal at the
City of Madison, Wisconsin, this 16th
day of February, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Morris Slavney
Morris Slavney, Chairman

Jos. B. Kerkman
Jos. B. Kerkman, Commissioner

MEMORANDUM ACCOMPANYING
ORDER DETERMINING CHALLENGED BALLOTS

On December 12, 1972, the Commission conducted a referendum among all production and maintenance employees, including truck drivers employed by Van Ryzin Machine Company at its Appleton, Wisconsin facility, excluding office clerical employees, sales employees, professional and managerial employees, guards and supervisors as defined in the Act, who were employed by the Employer on December 7, 1972, except for such employees as prior to the referendum quit their employment or were discharged for cause for the purpose of determining whether or not a majority of such employees favor an "All-Union Agreement" between the Employer and Union named above. During the course of the conduct of the referendum two employees, Donald Van Ryzin and David Vanderlois, were challenged by the Union. There were 14 employees eligible to vote in the referendum, two of whom were challenged. One blank ballot was not counted and 11 valid ballots were counted. Seven of the ballots counted favored an "All-Union Agreement"; four of the ballots counted did not favor an "All-Union Agreement". Since the two challenged ballots affected the outcome of the referendum, the Commission conducted an investigation with regard to said challenges.

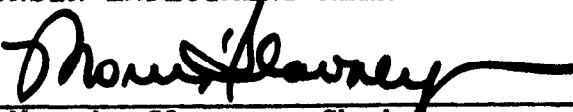
During the conduct of the investigation it was undisputed that Donald Van Ryzin was the son of the president and principal stockholder of the Company.


The Commission has consistently held that children of managerial stockholders found to be employed by their parent are therefore excluded from the definition of an employee within the meaning of the Act.^{1/} In determining that Donald Van Ryzin is not an employee within the meaning of the Act, the number of employees eligible to vote in the referendum is reduced from 14 to 13. Since the number of yes ballots tallied was seven, the reduction of eligibles from 14 to 13 are now sufficient to carry the referendum in favor of an "All-Union Agreement". For this reason it is not necessary for the Commission to make any determination on the challenged ballot of David Vanderlois.

We have this date directed that an amended tally sheet should issue.

Dated at Madison, Wisconsin, this 16th day of February, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By 
Morris Slavney, Chairman


Jos. B. Kerkman, Commissioner

^{1/} Block System, Inc. (4201) 3/56; Dorst Metalcraft, Inc. (4249-A) 6/56; Lassig Dairy (4296) 7/56; Schoepe's Ice Cream Co. (4436) 1/57; Bomberg's Better Bakeries (6315) 4/63; Price County Tel. Co. (6795) 7/64; Parks Engineering Inc. (6871) 9/64; Dells Food Specialties Co. (7121) 4/65; Earl Litho Printing Co. (7162) 5/65.