

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of	:	Case VII
LEATHER WORKERS UNION LOCAL 47,	:	No. 20893 R-5832
AMALGAMATED MEAT CUTTERS & BUTCHER	:	Decision No. 15062-A
WORKMEN OF NORTH AMERICA, AFL-CIO	:	
	:	
For a Referendum on the Question	:	
of an All-Union Agreement between	:	
	:	
BADGER STATE TANNING CORPORATION	:	
Milwaukee, Wisconsin, Employer	:	
	:	
and LEATHER WORKERS UNION LOCAL 47,	:	
AMALGAMATED MEAT CUTTERS & BUTCHER	:	
WORKMEN OF NORTH AMERICA, AFL-CIO,	:	
Union.	:	
	:	
	:	

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ORDER DISMISSING OBJECTIONS TO CONDUCT OF REFERENDUM  
AND CERTIFYING RESULTS OF REFERENDUM

The Wisconsin Employment Relations Commission having, on December 6, 1976, conducted a referendum, pursuant to a previously issued Direction, among certain employes of the above-named Employer, to determine whether said employes favored an "All-Union Agreement" between the above-named Union and said Employer. That the results of the referendum were as follows:

- 1. Total number claimed eligible to vote..... 53
- 2. Total ballots cast..... 49
- 3. Total ballots challenged..... 1
- 4. Total ballots blank..... 2
- 5. Total valid ballots counted..... 46
- 6. Ballots cast in favor of "All-Union Agreement"..... 15
- 7. Ballots cast against "All-Union Agreement"..... 31

That on December 10, 1976, the Union timely filed objections to the conduct of the referendum; and the Commission having considered said objections and being satisfied, for the reasons noted in the Memorandum attached hereto, that said objections should be dismissed and that the results of the referendum should be certified;

NOW, THEREFORE, it is

ORDERED

That the objections to the conduct of the referendum filed in the instant matter be, and the same hereby are, dismissed.

IT IS FURTHER CERTIFIED that the required number of the eligible employes in the collective bargaining unit consisting of all production and maintenance employes, including truck drivers, employed by Badger

State Tanning Corporation, Milwaukee, Wisconsin, excluding office clerical employes, guards, professional employes and supervisors, who were employed by the Employer on November 4, 1976, except such employes as may prior to the referendum quit their employment or be discharged for cause, failed to vote in favor of an "All-Union Agreement" between the Employer and the Union.

Given under our hands and seal at the City of Madison, Wisconsin this 3rd day of March, 1977.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney  
Morris Slavney, Chairman

Charles D. Hoornstra  
Charles D. Hoornstra, Commissioner

MEMORANDUM ACCOMPANYING ORDER DISMISSING OBJECTIONS  
TO CONDUCT OF REFERENDUM AND CERTIFYING  
RESULTS OF REFERENDUM

The Direction of Referendum issued herein was based on a stipulation filed by the parties, requesting the conduct of the referendum, and attached to said stipulation was a list of employes which the parties had previously agreed contained the names of 57 employes eligible to participate in the balloting. Prior to the opening of the balloting on December 6, 1976, the observers of the parties rectified the eligibility list and deleted the names of four individuals therefrom, apparently on the basis that they were no longer employed, thus reducing the list of eligibles from 57 to 53. Forty-nine employes appeared at the polls to vote and were given a ballot.

DISCUSSION:

In its objections, the Union set forth that it had intended to challenge the eligibility of 19 employes on the list because the Union believed that said individuals were aliens subject to imminent deportation. Three of said 19 had been deleted in rectifying the eligibility list. An additional individual on the list, and who was listed among the 19 claimed by the Union to be subject to imminent deportation, did not present herself to vote. Therefore, only 15 individuals who were included in the list of 19 by the Union cast ballots. Section 111.06(1)(c)1 of the Wisconsin Employment Peace Act sets forth that an employer and union may enter into an "All-Union Agreement", where a referendum is required, if a majority of eligible employes voting vote in favor of authorizing such an agreement. It should be further noted that employes who cast blank ballots do not cast a valid ballot, 1/ and therefore an employe who casts a blank ballot is considered as not having voted.

Had the Union challenged the ballots of the 15 alleged aliens subject to imminent deportation, and had such challenges subsequently been sustained by the Commission, and further assuming that all of said 15 employes cast "no" ballots, the tally of the ballots would have been as follows:

1. Claimed eligible to vote.....	34
2. Valid ballots cast.....	32
3. Ballots challenged by Employer.....	1
4. Valid ballots counted.....	31
5. "Yes" ballots.....	15
6. "No" ballots.....	16

Thus, if the Commission were to find it necessary to resolve the ballot challenged by the Employer and further found that that employe was eligible to vote, and further assuming that that employe would have voted yes, there would have been 32 valid ballots counted and only 16 employes would have voted in favor of authorizing an "All-Union Agreement". Said 16 does not constitute a majority of the 32 employes voting. On the other hand, should the Commission have found that the

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1/ Dickten & Masch Mfg. Co., (4648) 12/57.

ballot challenged by the Employer should have been sustained, the number of ballots cast and counted would total 31 and since only 15 employes voted in favor of the proposition, such number was insufficient to authorize an "All-Union Agreement;"

While not determinative of the issue involved herein, it should be noted that upon receipt of the objections, the Commission requested its agent who conducted the balloting to submit a report to the Commission as to the objections. Said agent advised that prior to the balloting the Union representative inquired of the attorney for the Employer when the Union could object to the election. The Employer's attorney responded that the Union could do so five days after the date of the referendum. The Commission agent indicated that at no time did the attorney for the Employer indicate that challenges should be made after the ballots had been cast. The Union representative involved in the above colloquy with the Employer's attorney did not act as an observer during the conduct of the balloting. The Union observer made no request to challenge any of the ballots during the balloting.

The Commission desires to also note that when the parties filed the Stipulation for Referendum, attached thereto was a stipulated eligibility list. There was no indication in the stipulation, nor on the eligibility list, that any of the parties intended to challenge the ballots of the employes contained on said list. In stipulated elections or referendums, the parties should indicate the employes whose ballots they intend to challenge during the conduct of the balloting. One of the purposes of a stipulation is to avoid a hearing and to expedite the conduct of the election or referendum. Had the eligibility list indicated that the Union intended to challenge 19 employes and that the Employer intended to challenge an additional employe, totalling a possibility of 20 challenges out of 57 employes, the Commission would have rejected the stipulated eligibility list and would have set hearing to determine the eligibility of said 20 individuals prior to the issuance of the Direction of Referendum.

As indicated previously herein, had the ballots of the 15 individuals who voted and who were claimed by the Union not to be eligible, not voted, a majority of the eligible employes voting would not have voted in favor of the "All-Union Agreement" and therefore we are issuing our Certification of Referendum based on the original tally of the ballots.

Dated at Madison, Wisconsin this 3rd day of March, 1977.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney  
Morris Slavney, Chairman

Charles D. Hoornstra  
Charles D. Hoornstra, Commissioner