

Human Resources

LABOR-MANAGEMENT RELATIONS AND EMPLOYMENT STANDARDS

610 W. 10th, 2nd Floor TOPEKA, KANSAS 66612
913-296-3094MEMORANDUM

TO: Mr. Bud Archer, Phillips County Commissioner
Mr. Art Veach, Business Representative
Mr. Robert DeBoer, Lead Truck Driver

FROM: Jerry Powell, Chief, Labor Relations Section

DATE: February 20, 1979

SUBJECT: Objections to Election - UDE 1-1979

The above reference case came before the Board for consideration on February 15, 1979. The Board was informed that Mr. DeBoer, Mr. Bennett, and Mr. Miller were present in the polling area at certain times during the election. Further that there is no question concerning Mr. DeBoer's status as a supervisor. The Board issued the opinion that the mere presents of a supervisor in a polling area was not sufficient reason to overturn the election. This opinion was issued in light of the facts that voting booths were provided, that there were no allegations of any cohesion of employees by Mr. DeBoer, and that the union observer did not point out the presents of a supervisor to the election agent at the time of the incident.

A motion was made to dismiss the objections by Ms. Fletcher and was seconded by Mr. Mangan. The motion carried as follows:

Mr. Mangan - Yes
Ms. Fletcher - Yes
Mr. Rennick - Yes
Mr. Smith - Abstained from voting.

Pursuant to this action I am hereby notifying all parties that the election results are certified as follows.

Approximate number of eligible voters	23
Votes cast for Service Employees Union	6
Votes cast for No Representation	16

The employees have, therefore, chosen no representation and our records will reflect that Service Employees Union Local 513 has been decertified as the exclusive representative.

Thank you for your patients and cooperation in this matter.

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610 W. 10th, 2nd Floor TOPEKA, KANSAS 66612
913-296-3094MEMORANDUM

TO: Board Members

FROM: Jerry Powell, Chief, Labor Relations Section

DATE: January 2, 1979

SUBJECT: Phillips County Road & Bridge Election

The decertification election was conducted on October 12, 1978 at the Phillips County Shop in Phillipsburg, Kansas. from 7:45 AM until 8:15 PM. The results of that election were:

Approximate number of eligible voters	23
Votes cast for Service Employees Union	6
Votes cast for No Representation	16

As a result of the election Service Employees Union was decertified as the exclusive representative of the employees of the Phillips County Road and Bridge appropriate unit.

On October 16, 1978 Mr. Art Veach filed objections to that election stating that supervisors were present in the polling area and requesting that the election be set aside.

Mr. Veach states that three supervisors were present. The individuals are:

Mr. V. Miller - supervisor
Mr. W. Bennett - supervisor
Mr. E. DeBoer - supervisor

Prior to the election Mr. Veach raised the question of the status of these three individuals to vote in the election. As election agent I ruled that Mr. Bennett and Mr. Miller would be eligible to vote since they had not been excluded from voting in prior elections. Further, my ruling stated that Mr. Veach could challenge these individuals for subsequent consideration by the Public Employee Relations Board. I excluded Mr. DeBoer from voting since he had not been allowed to vote in previous elections.

Mr. Bennett and Mr. Miller's positions were not in existence at the time of the original certification election, thus they were never specifically excluded as supervisors or included as eligible voters. In a previously conducted decertification election (UDC 5-1976) no question of their status was raised until the day of the election, at which time I ruled they could vote subject to a challenge by the Union. Neither Mr. Bennett or Mr. Miller voted and the union carried the election. Questions of Mr. Bennett and Mr. Miller's status as public employees were raised the evening before the October, 1978 election, thus prompting my ruling for voting purposes.

On the day of the election, October 12, 1978, I informed both Mr. Bennett and Mr. Miller that they were welcome to vote but both declined. The election was conducted at the county shop which consists of a shop area, an office area, and a parts storage and distribution area. Two private voting booths were set up in the office area for the marking of the ballots. The booths were of the type used in general elections and were provided by the county.

On the morning of the election the employees congregated in the office area. Mr. Veach, the Service Employees Union Representative and Mr. Leonard Archer, County Commissioner, were directed to leave the area and election observers were appointed by the union and the group of employees petitioning for the election. At the appointed hour for the election I explained the election procedure and the ballot to the employees. Each employee in turn was given an opportunity to enter one of the booths and mark his or her ballot. No ballots were marked outside of the voting booths.

Having conducted the previous decertification election I was acquainted with Mr. Bennett and Mr. Miller. Both gentlemen were in the polling area on numerous occasions. I was not, however, acquainted with Mr. DeBoer, thus I was not aware that an ineligible voter or supervisor was present.

Subsequent to the filing of objections, Mr. Thomas Sullivan, Attorney for Phillips County, filed an answer to the charges. In his answer, Mr. Sullivan states that Mr. DeBoer was present in the doorway of the office during a portion of the election.

On December 29, 1978, I traveled to Phillipsburg to interview employees concerning the whereabouts of Mr. DeBoer during the election. Interviews with employees do substantiate the allegation that Mr. DeBoer was present during times when employees were voting. There was no campaigning by the union, the employees petitioning for the election, or by any supervisor during the time the polling was taking place. Since I was not acquainted with Mr. DeBoer, I do not know if he was present in the polling area in previous elections. I believe it is incumbent upon the union or the designated election observer of the union to point out the presents of a supervisor to the election agent at the time when such action occurs. It is unreasonable for the union to assume that an election agent can recognize all individuals designated as supervisors. No objection to Mr. DeBoer's presents was made prior to or during the election. I also question the spoiling of the election by the mere presents of a supervisor since all voting took place in a booth. Mr. DeBoer could have stood outside the door and observed all employees entering the voting booths.

Mr. Veach has not alleged any threatening statements or actions by Mr. DeBoer or any other management official either prior to or during the election