Case No. E-812
Decision No. 422
Decided October 22, 1956

STATE OF CONNECTICUT
DEPARTMENT OF LABOR
CONNECTICUT STATE BOARD OF LABOR RELATIONS

In the Matter of

RED COACH GRILLE, INC.

- and -

HOTEL & RESTAURANT EMPLOYEES & BARTENDERS
INTERNATIONAL UNION LOCAL 59, AFL-CIO

APPEARANCES

Joseph T. Brennan, Esq. for the Employer

Mr. Richard Uhrich for the Union

DECISION AND CERTIFICATION OF REPRESENTATIVE

Statement of the Case

On July 27, 1956, Hotel & Restaurant Employees & Bartenders International Union Local 59, AFL-CIO, hereinafter called the Union, filed with the Connecticut State Board of Labor Relations, hereinafter called the Board, a petition alleging, as amended, that a question or controversy had arisen concerning the representation of certain employees employed by Red Coach Grille, Inc. of Berlin Turnpike, Wethersfield, Connecticut, hereinafter called the Employer, and requesting the Board to conduct an investigation and certify the representative of such employees for collective bargaining purposes pursuant to Section 7393, as amended, of the Connecticut State Labor Relations Act, hereinafter called the Act.

On August 3, 1956 the parties attended a conference at the Labor Department Building, Hartford, Connecticut, which was arranged by the Agent of the Board, and entered into an agreement which, in part, provided as follows:

1. A question or controversy had arisen concerning representation of the employees of the Employer within the meaning of Section 7393, as amended, of the Act;

2. A hearing on the issues raised by the petition be dispensed with;

3. All waiters waitresses, bus girls and bus boys, excluding all other classifications and executives, supervisory personnel and office clerical employees employed by the Employer constitute a unit
appropriate for the purposes of collective bargaining with respect to rates of pay, wages, hours and other conditions of employment within the meaning of Section 7393, as amended, of the Act, and that the Board may so find;

4. The employees within said appropriate unit who were in the employ of the Employer on payroll week ending July 29, 1956, and who were employees at the time of the election shall be eligible to vote in the election agreed upon;

5. That an election by secret ballot be conducted under the supervision of the Board at a time and place to be fixed by it, among the eligible employees within the said appropriate unit;

6. If a majority of the eligible persons voting in said election indicated their desire to be represented by the Union for the purpose of collective bargaining the Board may certify that the Union had been duly designated by the majority of the employees within said appropriate unit as their representative for the purpose of collective bargaining, and is the exclusive representative of all of said employees within said appropriate unit for the purpose of collective bargaining within the meaning of Section 7393, as amended, of the Act.

Pursuant to the agreement of the parties an election by secret ballot was conducted under the supervision of the Board on August 6, 1956, at Wethersfield, Connecticut. The results of the election was as follows:

<table>
<thead>
<tr>
<th>Description</th>
<th>Number</th>
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<tbody>
<tr>
<td>Total Number of Ballots Cast</td>
<td>37</td>
</tr>
<tr>
<td>Total Number of Votes IN FAVOR of the Union</td>
<td>19</td>
</tr>
<tr>
<td>Total Number of Votes NOT IN FAVOR of the Union</td>
<td>14</td>
</tr>
<tr>
<td>Total Number of Challenged Ballots</td>
<td>4</td>
</tr>
</tbody>
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The Union challenged the right of Robert Ellingwood, Arthur Gaetaniello and Edgar Robinson to vote in the election on the ground that they were employed less than twenty hours weekly. The Union also challenged the right of Lucille Kreiger to vote on the ground that she was employed as a cocktail hostess and therefore not included in the appropriate unit. Each of these employees was permitted to vote a challenged ballot which was deposited in a separate sealed envelope provided for such purpose and upon which was marked the reason for the challenge. The envelopes containing the challenged ballots were delivered to the Board unopened by the Agent.

On August 13, 1956, the Employer filed a protest to the election, and requested the same be declared void claiming (1) that many part time regular employees in the classifications included in the appropriate unit were not permitted to vote, and (2) that the Union’s representative had interfered with the free choice of the employees by solicitation and argument on the premises of the Employer where the election was held during the election hours and had attempted to persuade at least one of the employees to cast her vote in favor of the Union.

On September 7, 1956, the Board held a hearing at the Labor Department Building, Hartford, Connecticut, to determine the validity of the challenges and to pass upon the Employer’s objection to the election. The parties were given full opportunity to be heard, to examine and cross-examine witnesses and to
introduce evidence bearing upon the issues raised by the challenges, and the Employer's objections to the

election.

Upon the entire record of the proceedings the Board makes the following findings of fact:

FINDINGS OF FACT

THE EMPLOYER. Red Coach Grille, Inc. is a corporation organized under the laws of the State of Delaware
and authorized to do business in the State of Connecticut. It owns and operates a general restaurant
business with cocktail, lounge and bar, located on the Berlin Turnpike in Wethersfield, Connecticut.

THE UNION. Hotel & Restaurant Employees & Bartenders International Union Local 59, AFL-CIO, is a
labor organization which exists and is constituted for the purpose, in whole or in part, of collective
bargaining and of dealing with employers concerning grievances, terms and conditions of employment
and other mutual aid and protection.

THE QUESTION OR CONTROVERSY CONCERNING REPRESENTATION. The Agreement of the parties
recognizes at a question or controversy has arisen concerning the employees of the Employer within the
meaning of Section 7393, as amended, of the Act. In addition to that the parties are not agreed upon the
eligibility of certain of the employees to be included in the appropriate unit hereinafter designated.

THE CHALLENGED BALLOTS AND EMPLOYER’ S CLAIM, RE ELIGIBILITY OF REGULAR PART TIME
EMPLOYEES TO VOTE. The Employer contended that nine or ten regular per time employees in
classifications included in the appropriate unit were not permitted to vote because they did not average
at least twenty hours per week. It claimed that all regular part time workers in classifications included in
the bargaining unit should be eligible to vote irrespective of the number of hours worked. We do not
believe the contention is sound. A worker who only works a few hours a week, even though there is
regularity of such employment over a long period of time, does not have interests sufficiently similar to
the regular full time employees to be included in the appropriate unit. We have held in prior cases that
regular part time employees who average 50% of the normal work week should be included in the
appropriate unit. The regularity of their employment and the substantial number of hours worked
weekly vest in them interests sufficiently similar to the regular full time employees to be included in the
appropriate unit and they have a substantial interest in the selection of a bargaining representative. (In
The Matter of Norwich City Cab Co., Case No. E-720-December, 1955). We see no reason for deviating
from such policy in this case.

Since Ellingwood, Gaetaniello and Robinson averaged less than twenty hours per week the challenges to
their ballots are sustained. The challenge to the ballot of Lucille Kreiger is overruled since the evidence
showed that she is actually a waitress and not a cocktail hostess as claimed by the Union. Her duties
consist of serving liquor and hors d’oeuvres in the cocktail lounge and occasionally food if customers
request it. She is carried on the Employer’s payroll as a waitress and is paid on the same basis as the
other waitresses. The fact that she does not wear a uniform as do the other waitresses is not important.
When she is not working in the cocktail lounge other regular waitresses substitute for her. She is,
therefore, included in the bargaining unit. However, as her ballot cannot possibly affect the final results of
the election we will not open her envelope and disclose her vote as to do so would needlessly violate the secrecy of her ballot.

**THE APPROPRIATE UNIT.** All waiters, waitresses, bus girls and bus boys, including regular part time employees who average at least 50% of the actual work week, and excluding all other classifications and executives, supervisory personnel and office clerical employees employed by the Employer, constitute a unit appropriate for the purposes of collective bargaining with respect to rates of pay, wages, hours and other conditions of employment within the meaning of Section 7393, as amended, of the Act.

**EMPLOYER'S CLAIM OF UNION INTERFERENCE AT ELECTION.** The evidence does not show any interference by the Union's representative with the election. During the voting period one of the employees, Loretta Bedus, upon her arrival at the polling place to vote sought out William Kravit, business representative of the Union to secure information concerning the Union. She was informed that Kravit was in the cocktail lounge, a different room from where the voting was taking place. She went out and met Kravit and then both went out of the restaurant building into the adjoining parking lot. Kravit discussed the advantages of the Union and explained the Union's function to her. She had prior to the election day, criticized the Union to the other employees and didn't want the Union in the restaurant. She admitted that Kravit exerted no coercion upon her and answered all of her questions. After the conversation, which took fifteen or twenty minutes, she thanked him for helping her make up her mind. She admitted she was not influenced in any way by what he said and she did not tell him how she intended to vote. We do not believe there was any impropriety in this incident.

**CONCLUSIONS OF LAW**

Upon the basis of the foregoing Findings of Fact the Board finds and concludes as a matter of law:

1. Red Coach Grille, Inc. is an employer within the meaning of Section 7388 - subsection 6, of the Act.

2. Hotel & Restaurant Employees & Bartenders International Union, Local 59, AFL-CIO, is a labor organization within the meaning of Section 7388 - subsection 9 - of the Act.

3. All waiters, waitresses, bus girls and bus boys including regular part time employees who average at least 50% of the actual work week, and excluding all other classifications and executives, supervisory personnel and office clerical employees employed by the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 7393-subsection 2 - of the Act.

**CERTIFICATION OF REPRESENTATIVES**

By virtue of and pursuant to the power vested in the Connecticut State Board of Labor Relations by Section 7393, as amended, of the Connecticut State Labor Relations Act, it is hereby, CERTIFIED that Hotel & Restaurant Employees & Bartenders International Union Local 59, AFL-CIO, has been designated as the representative for the purpose of collective bargaining by the majority of all
waiters, waitresses, bus girls and bus boys including regular part time employees who average at least 50% of the actual work week, and excluding all other classifications and executives, supervisory personnel and office clerical employees employed by the Employer, and that Hotel & Restaurant Employees & Bartenders International Union, Local 59, AFL-CIO is the exclusive representative of all such employees for the purpose of collective bargaining with respect to rates of pay, wages, hours of employment or other conditions of employment.

CONNECTICUT STATE BOARD OF LABOR RELATIONS
BY:

/s/ Fleming James Jr.
Chairman

/s/ Peter A. McManus
Member

/s/ Dorothy McCaffery
Member

TO:

Red Coach Grille, Inc.
Berlin Turnpike
Wethersfield, Connecticut

Hotel & Restaurant Employees
& Bartenders International
Union, Local 59, AFL-CIO
97 Park Street
Hartford, Connecticut