

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF LABOR RELATIONS
BEFORE THE COMMONWEALTH EMPLOYMENT RELATIONS BOARD

In the Matter of:

TEAMSTERS LOCAL 25

and

MASSACHUSETTS PORT AUTHORITY

Case No. WMAS-24-10956

Date Issued: March 13, 2025

CERB RULING ON MOTION TO REINVESTIGATE CERTIFICATION BY
WRITTEN MAJORITY AUTHORIZATION

Summary

On January 15, 2025, the Department of Labor Relations (DLR) certified that the Teamsters Local 25 (Union) had been selected by a majority of employees to serve as their exclusive representative for purposes of collective bargaining in the following unit:

All full-time and regular part-time operations supervisors, airport supervisors in training and compliance, senior airport shift managers, and shift managers at the Massachusetts Port Authority in East Boston.

On January 22, 2025, the Massachusetts Port Authority (Employer) filed a motion with the DLR pursuant to 456 CMR 14.15 to reinvestigate that certification. For the following reasons, the Commonwealth Employment Relations Board (CERB) denies the motion.

Background

On November 5, 2024, the Union filed a Written Majority Authorization (WMA) petition with the DLR pursuant to M.G.L. c. 150A, Section 5 (the Law) and DLR Regulations 456 CMR 14.19 seeking to represent the above-described bargaining unit.

1 On November 25, 2024, the DLR became the Neutral in this case. During the WMA
2 verification process, the Employer challenged three petitioned-for titles which amounted
3 to eight of the 22 employees in the petitioned-for unit: 1) Senior Shift Manager, Training
4 and Compliance, 2) Senior Shift Manager, Airfield Construction/Part 139 Compliance, and
5 3) Airport Operations Shift Manager. The Employer challenged the inclusion of these
6 three titles on the grounds that they were managerial employees and therefore exempt
7 from any collective bargaining unit. A DLR hearing officer, serving as the Neutral,
8 determined that the challenges concerned eight of the 22 employees in the proposed
9 bargaining unit, that the Union submitted 16 valid written authorization cards, and
10 therefore the challenges were outcome-determinative.

11 The Neutral investigated the challenges pursuant to 456 CMR 14.19(10).¹ By letter
12 to the parties dated January 15, 2025, the Neutral rejected those challenges. The letter
13 summarized the parties' respective positions and provided detailed findings in support of
14 the Neutral's conclusion that the challenged employees were neither managerial nor
15 confidential employees and, therefore, appropriately included in the petitioned-for unit.

¹ 456 CMR 14.19(10) states:

As part of the verification process detailed in 456 CMR 14.19(11) and (12), the neutral shall determine whether a majority of employees on the list referred to in 456 CMR 14.19(7) have submitted valid written majority authorization evidence and whether there are a sufficient number of challenges referred to in 456 CMR 14.19(8) and (9) to affect the result of the written majority authorization verification process. If the number of challenges referred to in 456 CMR 14.19(8) and (9) is insufficient to potentially affect the result, then the neutral shall dismiss the challenges. If the number of challenges referred to in 456 CMR 14.19(8) and (9) is sufficient to potentially affect the result, the neutral shall investigate and resolve the challenges. The challenging party shall bear the burden of proving the validity of a challenge.

1 The Neutral attached this letter to a confidential inspection report that verified the Union's
2 majority support. The DLR certified the unit based on that report.

3 Request for Reinvestigation

4 This request for reinvestigation followed. In its request, the Employer contends that
5 the Neutral erred when he rejected the Employer's challenges to the inclusion of the three
6 titles. The Employer states that the Neutral failed to appreciate or give proper weight to
7 the challenged titles' responsibilities related to shutting down or curtailing the operations
8 of the airport based on their discretion and independent judgment. The Employer also
9 states that the Neutral failed to give proper weight to the Employer's arguments, and
10 misstated the Employer's arguments, that the challenged titles have historically been
11 excluded from any bargaining unit. The Union opposes the Employer's Motion for
12 Reinvestigation, stating that the Employer is not entitled to administrative review of
13 outcome-determinative challenges that were investigated and resolved during the WMA
14 verification process by the Neutral. The Union argues that the only ground for
15 reinvestigation of outcome-determinative challenges is where good cause exists pursuant
16 to 456 CMR 14.15, and the Employer has failed to establish "good cause" to reinvestigate.

17 Ruling

18 Section 5 of the Law requires the DLR to certify an "appropriate bargaining unit"
19 by written majority authorization and to "establish rules and procedures for the prompt
20 verification of evidence of a written majority authorization." The DLR has promulgated two
21 regulations pertaining to reinvestigation of certifications: 456 CMR 14.15, which permits
22 the DLR to "reinvestigate any matter concerning any certification issued by it," but only
23 for "good cause shown" and 456 CMR 14.19(15), which pertains specifically to

1 reinvestigation of certifications by written majority authorization, and permits an employer
2 to seek review of any previous challenges that the neutral dismissed as “non-outcome
3 determinative.” Here, because the Neutral dismissed outcome-determinative challenges,
4 456 CMR 14.19(15) does not apply. Therefore, the only issue before the CERB is
5 whether “good cause” exists under 456 CMR 14.15 to reinvestigate the certification. We
6 hold that it does not.

7 The CERB was faced with the same issue in Southeastern Massachusetts
8 Regional 911 District, 47 MLC 66, 66-67, WMAM-20-8054 (October 14, 2020) where, as
9 here, the employer sought reinvestigation of a DLR Neutral’s dismissal of its outcome
10 determinative challenges. The CERB denied the motion for reinvestigation. The CERB
11 first determined that there is no statutory or regulatory right of administrative review of
12 any challenges that a Neutral investigates and resolves during the WMA verification
13 process. Id. Rather, there is only a right to review a Neutral’s dismissal of non-outcome
14 determinative challenges, under 456 CMR 14.19(15), where the Neutral is required to
15 dismiss those challenges without resolving them. Id.

16 The CERB then held that given the absence of such right, to establish good cause
17 under 456 CMR 14.15, a party must do more than dispute the Neutral’s findings or
18 conclusions or seek a second opportunity to prove its claims. Id. at 67. Because the
19 employer had not done so, the CERB denied the request for reinvestigation. See also
20 Barnstable County Sheriff’s Office, 50 MLC 205, 205-206, WMAS-24-10472 (June 17,
21 2024) (denying a request for reinvestigation where the employer’s only grounds for
22 seeking reconsideration was its disagreement with the Neutral’s ruling on the outcome
23 determinative challenges); City of Boston, 51 MLC 37, 39, WMAM-23-10204 (August 16,

2024) (denying a request for reinvestigation where the employer sought review of titles that the Neutral already addressed as outcome determinative challenges).

Consistent with the CERB's previous decisions, the Employer's request for reinvestigation is similarly denied here, as the Employer's only grounds for seeking reconsideration is its disagreement with the Neutral's ruling.

Conclusion

For the foregoing reasons, the CERB denies the Employer's request to reinvestigate the DLR's January 15, 2025 certification. The certification therefore remains intact and unchanged.

SO ORDERED

COMMONWEALTH OF MASSACHUSETTS
COMMONWEALTH EMPLOYMENT RELATIONS BOARD²



LAN T. KANTANY, CHAIR



VICTORIA B. CALDWELL, MEMBER

² Member Kelly B. Strong did not participate in this decision.