

STATE OF CALIFORNIA  
AGRICULTURAL LABOR RELATIONS BOARD

In the Matter of:	)	
	)	
E & L FARMS,	)	NO. 75-RC-128-M
	)	
Employer,	)	
	)	2 ALRB No. 36
and	)	
	)	
WESTERN CONFERENCE OF	)	
TEAMSTERS, IBT, AND	)	
AFFILIATED LOCALS,	)	
	)	
Petitioner,	)	
	)	
and	)	
	)	
UNITED FARM WORKERS	)	
OF AMERICA, AFL-CIO,	)	
	)	
Intervenor.	)	

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On September 25, 1975 a representation election was conducted among all of the agricultural employees of E & L Farms in which the Western Conference of Teamsters and its affiliated locals ("Teamsters") received a majority of the votes.<sup>1/</sup>

Thereafter, the Teamsters and the United Farm Workers of America, AFL-CIO ("UFW") filed objections to the election under Labor Code Section 1156.3(c); however, the Teamsters' objections, which questioned the propriety of the bargaining unit, were withdrawn prior to hearing. The single objection raised by the UFW in its objections petition alleged that during the course of the election the employer's observer instructed the voters to place their mark for the first choice on the ballot, or in other words, to vote for the Teamsters.

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<sup>1/</sup> The tally of ballots was: Teamsters - 6 votes, UFW - 1 vote, and there were no void or challenged ballots.

At the outset of the evidentiary hearing on this objection, the UFW orally moved for a continuance of the hearing for at least one month upon the ground that its only witness, whom the UFW would not name, had informed the union's attorney on the morning of the hearing that he would not be able to attend for a reason which the UFW refused to reveal. During the argument on the motion, the UFW admitted that its motion was not based on the unavailability of the witness and, apparently conceded that the witness was physically present within a short distance of the hearing site. Based on the actual availability of the union's witness, the hearing officer denied the UFW's motion for a continuance. We affirm the hearing officer's decision. See R. T. Englund Company, 2 ALRB No. 23 (1976).

With the denial of the motion for a continuance and the UFW's statement that it had no witnesses to call, the hearing officer properly exercised his discretion and called the employer's observer as the only witness. The employer's observer testified that during the election the Board agent would call the voters to the polling area by name, one at a time. As the voters approached the table where the observers and the Board agents were seated, the observers were asked by the Board agent if they recognized the voter, and one or more of the observers would respond affirmatively in English. The Board agent would then hand the voter a ballot and the voter would proceed to the voting booth, mark the ballot, place it in the ballot box, and then leave the polling area. The witness testified that there were no conversations with voters in the polling place.

On this record, we find that the employer's observer did not attempt to influence the manner in which the employees cast their ballots during the election and, accordingly, dismiss the UPW's objection.

Therefore, the Western Conference of Teamsters and its affiliated locals are certified as the collective bargaining representative for all of the agricultural employees of E & L Farms.

Dated: February 23, 1976

<u>Roger M. Mahony</u>	<u>Richard Johnson, Jr.</u>
<u>James Swedin</u>	<u>Lilay Chapman</u>