

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 19**

TOWN & COUNTRY FOODS

Employer/Petitioner

and

Case 19-RM-364265

**BAKERY, CONFECTIONARY, TABACCO
WORKERS & GRAIN MILLERS
INTERNATIONAL UNION LOCAL 466**

Union

DECISION AND ORDER

The employer, Town & Country Foods, Inc. (“Employer-Petitioner”) is a Montana corporation with a place of business located at 306 Euclid Avenue, Helena, Montana (“Helena store”) and is engaged in the business of operating a retail grocery store. Bakery, Confectionary, Tobacco Workers & Grain Miller’s International Union, Local 466, AFL-CIO (“Union”) is the incumbent union and currently represents bakery employees at the Helena store. On April 22, 2025, the Employer-Petitioner filed an RM petition asserting it has good-faith uncertainty as to the Union’s majority status. On May 1, 2025, the Regional Director accepted the parties’ Stipulation in Lieu of Hearing. On May 8, 2025, both parties filed post-hearing briefs, which have been duly considered.

The sole issue is whether the petition should be dismissed because, as the Union contends, the “successor bar” doctrine re-established by the Board in *UGL-UNICCO Service Co.*, 357 NLRB No. 76 (2011), precludes the processing of the petition. The Employer-Petitioner contends *UGL-UNICCO* should be overruled and the Board should return to the “good-faith uncertainty standard” under which the Employer-Petitioner can prevail.

The Board has delegated its authority in this proceeding to the Regional Director under § 3(b) of the National Labor Relations Act (“Act”). As explained below, the successor bar doctrine precludes processing of the petition. Accordingly, the petition is dismissed.

I. RECORD EVIDENCE

Effective October 1, 2023, through October 3, 2026, the Union entered into the most recent collective bargaining agreement in a series of agreements with a predecessor employer called Van’s Thriftway, Inc. (“Van’s Thriftway”). The agreement covered all bakers, donut fryers, bakery sales

employees, decorators, and bakery department apprentices employed by Van's Thriftway at the Helena store.

On or around December 23, 2024, the Employer-Petitioner purchased the Helena store from Van's Thriftway. By February 2025, the Employer-Petitioner assumed operations of the Helena store. The parties stipulate, and I find, the Employer-Petitioner then hired a majority of the bakery department employees previously employed by Van's Thriftway, subject to the Employer-Petitioner's own terms and conditions of employment. The parties stipulate, and I find, there is a substantial continuity in the operations within the bakery department. Accordingly, the Employer-Petitioner is a successor employer to Van's Thriftway but is not bound by any prior collective bargaining agreement that existed between Van's Thriftway and the Union.

On or around April 7, 2025, the Employer-Petitioner received a letter from the Union demanding recognition and bargaining because the Employer-Petitioner is a successor employer within the meaning of the Act. Rather than recognize the Union, the Employer-Petitioner filed an RM petition approximately two weeks later, on April 22, 2025. The parties stipulate, and I find, there is currently no collective-bargaining agreement covering any of the bakery department employees and there is no contract bar in this matter.

II. DISCUSSION

A. The Successor Bar

Under the Board's "successor bar" doctrine, when a successor employer acts in accordance with its legal obligation to recognize an incumbent representative of its employees, the previously chosen representative is entitled to represent the employees in collective bargaining with their new employer for a reasonable period, without challenge to its representative status. *UGL-UNICCO Service Co.*, 357 NLRB No. 76 (2011), citing *St. Elizabeth Manor*, 329 NLRB 341 (1999), overruled by *MV Transportation*, 337 NLRB 770 (2002). In *UGL-UNICCO*, the Board observed that the successor bar creates a *conclusive* presumption of majority support for a defined period of time, preventing any challenge to the union's status, whether by the [e]mployer's unilateral withdrawal of recognition from the union or by an election petition filed with the Board by the employer, by employees, or by a rival union." *Id.*, slip op. at 3 (emphasis in original). As the Board explained, a prohibition on both the processing of a representation petition and an employer's unilateral withdrawal of recognition from a union are firmly rooted in labor law and predicated on the principle that "a bargaining relationship once rightfully established must be permitted to exist and function for a reasonable period in which it can be given a fair chance to succeed." *Id.*, citing *Franks Bros. Co. v. NLRB*, 321 U.S. 702, 705 (1944).

In restoring the successor bar doctrine, the Board definitively defined a "reasonable period of bargaining." The Board adopted two distinct definitions based on different situations. First, where an employer expressly adopts a predecessor's terms and conditions of employment, the Board determined that a "reasonable period of bargaining" would be six months measured from the date of the first bargaining meeting. Second, where an employer does *not* expressly adopt the

predecessor's terms and conditions of employment, the Board defined a "reasonable period of bargaining" as a minimum of six months and a maximum of one year, measured from the date of the first bargaining meeting. *UGL-UNICCO*, 357 NLRB No. 76, slip op. at 9. In either situation, the period the successor bar applies is a minimum of six months, measured from the first bargaining session.

The successorship bar applies to the parties here. The Union is the incumbent representative of bakery department employees at the Helena store. The Employer-Petitioner is a successor without adopting Van's Thriftway's terms and conditions of employment. No bargaining has occurred because the Employer-Petitioner filed an RM petition in response to the Union's demand for recognition and bargaining. Based on these facts, the minimum period of bargaining during which the Union is free from challenge to its majority status is a minimum of six months and a maximum of one year from the parties' first bargaining session. That has not occurred yet in this case. Therefore, the successor bar is applicable.

The Employer-Petitioner's claim of good-faith uncertainty of the Union's majority status is irrelevant under current Board law. To the extent the Employer-Petitioner seeks to overturn Board law, that is an argument for the Board. The Board's successor bar doctrine allows a union sufficient time to prove its mettle to employees they represent in negotiations, without its majority being challenged. In this case, the Union has not had any opportunity to do so with the successor Employer-Petitioner.

III. CONCLUSION

Based on the entire record in this matter and in accordance with the discussion above, I conclude and find as follows:

1. The parties stipulated, and I find, that the Employer-Petitioner is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.¹

2. The parties stipulated, and I find, the Union is an organization in which employees participate, and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work, and is a labor organization within the meaning of § 2(5) of the Act.

¹ The Employer, a State of Montana corporation with an office and place of business in Helena, Montana, is engaged in the business of operating a retail grocery store. During the past twelve months, a representative period, the Employer had gross revenues in excess of \$500,000 and purchased and received at its facilities within the State of Montana goods valued in excess of \$50,000 directly from suppliers located outside the State of Montana.

IV. ORDER

It is hereby ordered that the petition in this matter is dismissed.

RIGHT TO REQUEST REVIEW

Pursuant to Section 102.67(c) of the Board's Rules and Regulations, you may obtain a review of this action by filing a request with the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001. A copy of the request for review must be served on each of the other parties as well as on the undersigned, in accordance with the requirements of the Board's Rules and Regulations. The request for review must contain a complete statement of the facts and reasons on which it is based.

Procedures for Filing Request for Review: Pursuant to Section 102.5 of the Board's Rules and Regulations, a request for review must be filed by electronically submitting (E-Filing) it through the Agency's web site (www.nlrb.gov), unless the party filing the request for review does not have access to the means for filing electronically or filing electronically would impose an undue burden. A request for review filed by means other than E-Filing must be accompanied by a statement explaining why the filing party does not have access to the means for filing electronically or filing electronically would impose an undue burden. Section 102.5(e) of the Board's Rules do not permit a request for review to be filed by facsimile transmission. A copy of the request for review must be served on each of the other parties to the proceeding, as well as on the undersigned, in accordance with the requirements of the Board's Rules and Regulations. The request for review must comply with the formatting requirements set forth in Section 102.67(i)(1) of the Board's Rules and Regulations. Detailed instructions for using the NLRB's E-Filing system can be found in the [E-Filing System User Guide](#).

A request for review must be received by the Executive Secretary of the Board in Washington, DC, by close of business (**5 p.m. Eastern Time**) on **June 5, 2025**, unless filed electronically. If filed electronically, it will be considered timely if the transmission of the entire document through the Agency's website is **accomplished by no later than 11:59 p.m. Eastern Time on June 5, 2025**.

Filing a request for review electronically may be accomplished by using the E-Filing system on the Agency's website at www.nlrb.gov. Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt of the request for review rests exclusively with the sender. A failure to timely file the request for review will not be excused on the basis that the transmission could not be accomplished because the Agency's website was offline or unavailable for some other reason, absent a determination of technical failure of the site, with notice of such posted on the website.

Upon good cause shown, the Board may grant special permission for a longer period within which to file a request for review. A request for extension of time, which must also be filed electronically, should be submitted to the Executive Secretary in Washington, and a copy of such

request for extension of time should be submitted to the Regional Director and to each of the other parties to this proceeding. A request for an extension of time must include a statement that a copy has been served on the Regional Director and on each of the other parties to this proceeding in the same manner or a faster manner as that utilized in filing the request with the Board.

Any party may, within 5 business days after the last day on which the request for review must be filed, file with the Board a statement in opposition to the request for review. An opposition must be filed with the Board in Washington, DC, and a copy filed with the Regional Direction and copies served on all the other parties. The opposition must comply with the formatting requirements set forth in §102.67(i)(1). Requests for an extension of time within which to file the opposition shall be filed pursuant to §102.2(c) with the Board in Washington, DC, and a certificate of service shall accompany the requests. The Board may grant or deny the request for review without awaiting a statement in opposition. No reply to the opposition may be filed except upon special leave of the Board.

Dated at Seattle, Washington this 21st day of May, 2025.



RONALD K. HOOKS
Regional Director
National Labor Relations Board
Region 19
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