

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

START SMALL. THINK BIG., INC.
Employer

and

Case 02-RC-317333

START SMALL COLLECTIVE
BARGAINING UNIT, LOCAL 3202
Petitioner

ORDER

The Employer's Request for Review of the Regional Director's Decision and Direction of Election is denied as it raises no substantial issues warranting review.¹

JAMES R. MURPHY, CHAIRMAN

DAVID M. PROUTY, MEMBER

Dated, Washington, D.C., July 13, 2026.

Member Mayer, dissenting

Contrary to my colleagues, I would grant the Employer's Request for Review on the question of whether Senior Finance Program Manager Ian McDermott is a statutory supervisor

¹ The Board has exercised its discretion to read the record in this case. See Board's Rules and Regulations, Sec. 102.67(e).

In denying review of the Regional Director's finding that the Employer's Senior Finance Program Manager, Ian McDermott, is not a statutory supervisor on the basis of hiring, we do not reach the question of whether McDermott has the authority to effectively recommend hire. Rather, we find that, even assuming McDermott possesses that authority, the Employer has not met its burden to establish that McDermott uses independent judgment in recommending job applicants. In this regard, the record evidence contains almost no information about McDermott's approach to the hiring process or the factors he considers when making hiring recommendations, except for a single statement that he recommended a candidate for hire because he thought she would remain in the job for the long term. Thus, the evidence fails to establish that McDermott "make[s] [his] hiring decisions and recommendations based on [his] own assessments of what skills are needed and whether the individuals they are considering hiring have the appropriate skills or qualifications." Cf. *Fred Meyer Alaska, Inc.*, 334 NLRB 646, 649 (2001).

under Section 2(11) with the authority to effectively recommend hiring, including whether secondary indicia support a finding that he is a statutory supervisor.

Effectively Recommend Hire

The record demonstrates that McDermott played a central and influential role in the hiring of Program Coordinator Arlene Cornejal, his direct report. Senior Director Ranjit Unnithan testified that McDermott was “very actively engaged from beginning to the end” of the hiring process. McDermott participated in screening resumes, interviewing and short-listing candidates, and recommending who to hire. Unnithan testified that McDermott’s views were pivotal and that *he would not have moved forward* with hiring the program coordinator if McDermott did not recommend her. See *Sheraton Universal Hotel*, 350 NLRB 1114, 1115 (2007) (finding authority to effectively recommend hiring where, although a higher-level manager would also interview applicant, supervisor’s negative recommendation “would have been fatal” to an applicant’s prospects). Indeed, the evidence here is even stronger than in *Sheraton Universal Hotel*: not only would McDermott’s negative recommendation doom an application, but the record shows that he independently interviewed Cornejal at the outset and remained heavily involved throughout the hiring process.

Section 2(11) also requires that a putative supervisor use independent judgment in the exercise of supervisory authority. The Regional Director erred in failing to make any findings regarding McDermott’s independent judgment, and I would grant review on that basis as well. In that regard, there is no evidence that McDermott’s recommendations were constrained by any Employer-issued policies or checklists. Moreover, McDermott stated that he recommended hiring Cornejal because he thought she would remain in the job for the long term, an inherently subjective determination. In my view, this evidence is also sufficient to warrant granting review. See *Sheraton Universal Hotel*, *supra* (finding supervisory status based solely on manager’s unequivocal testimony that he would not hire an applicant if putative supervisor recommended against it); *HS Lordships*, 274 NLRB 1167 (1985) (same).

Secondary Indicia

Granting review on this issue is further supported by the substantial evidence of secondary indicia of supervisory status. During McDermott’s employment, Unnithan neither reviewed nor approved Cornejal’s performance review; that assessment was written solely by McDermott and included his written comments. McDermott also discussed the review with Cornejal and acted on her requests for professional development. Specifically, Cornejal wrote in her review that she sought additional training, and she testified that McDermott provided the requested resources. She further testified that she asked McDermott for more one-on-one meetings, after which the two began meeting bi-weekly. Finally, McDermott’s own performance review contained a two-page section titled, “Your Performance as a People Manager,” which provided specific feedback and a numerical rating concerning his management of Cornejal.

These secondary indicia support a finding that McDermott is a statutory supervisor. Granting review is particularly appropriate in these circumstances.

Conclusion

For the reasons set forth above, I would grant review of the Regional Director's Decision and Direction of Election. Accordingly, I respectfully dissent.

SCOTT A. MAYER, MEMBER