

STATE OF NEVADA
LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT
RELATIONS BOARD

ELKO GENERAL HOSPITAL,)	ITEM NO. 312
)	
Petitioner,)	CASE NO. A1-045537
)	
-vs-)	<u>ORDER DETERMINING</u>
)	<u>ISSUES REGARDING</u>
ELKO COUNTY EMPLOYEES)	<u>CHALLENGED BALLOTS</u>
ASSOCIATION,)	
)	
Respondent.)	

For Petitioner: David M. Fleishman, Esq.
RICHARDS, WATSON & GERSHON

David L. Cohen, Esq.
RICHARDS, WATSON & GERSHON

Anne Rieger, Administrator
ELKO GENERAL HOSPITAL

For Respondent: John R. Kidwell, Jr., Representative
J.R. KIDWELL, LTD.

In a telephone conference meeting held on March 29, 1993, pursuant to Nevada's Open Meeting Law, the Board determined, pursuant to NAC 288.110(8), that:

(1) The issues regarding the challenged ballots effecting the results of the bargaining unit election held March 10 and 11, 1993, can be resolved without a hearing;

(2) The challenged ballot cast by Karalee Gunter (because she had submitted a resignation dated March 3, 1993, to be effective March 17, 1993) should be counted [see NLRB vs. General Tube Co., 331 F.2d 751, 56 LRRM 2161 (CA 6, 1964); Ely & Walker, 151 NLRB 636, 58 LRRM 1513 (1965); Reidbord Bros. Co., 99 NLRB 127, 30 LRRM 1047 (1952).]; and

(3) The challenged ballot cast by Esperanza Marin (because she signed it) is null and void and should not be counted [see George K. Garrett Co., 120 NLRB 484, 41 LRRM 1519 (1958); Eagle Iron

1 Works, 117 NLRB 1053, 39 LRRM 1379 (1957);
2 Burlington Mills Corp., 56 NLRB 365, 14 LRRM 148
3 (1944)].

4 The Board hereby ORDERS that the parties immediately
5 contact the Board's Commissioner and reach agreement to a
6 time, date and location for opening the envelope containing
7 the challenged ballot of Karalee Gunter. If said ballot is
8 determined to have been cast in favor of representation by
9 Elko County Employees Association, resulting in a tie vote (85
10 for and 85 against), the Board further ORDERS that another
11 election be held, pursuant to NAC 288.110. Said election will
12 be conducted under the supervision of the Board's Commissioner
13 within forty-five (45) days from the date of this Order,
14 pursuant to NRS 288.160(4) and NAC 288.110. Linguistic
15 assistance will be provided by the parties and a bilingual
16 ballot will be used.

17 If Karalee Gunter's ballot is determined to have been
18 cast against representation by Elko County Employees
19 Association, resulting in 86 votes being cast against
20 representation and 84 for representation, the parties will be
21 notified that the election of March 10 and 11, 1993, failed to
22 provide a basis for certification of the Association as the
23 exclusive bargaining agent for certain employees of Elko
24 General Hospital.

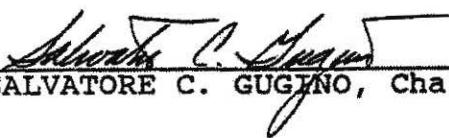
25 The Board's decision in this case is solely to resolve a
26 situation which arose as a result of the particular facts and
27 circumstances surrounding the instant case. The Board is
28 concerned about the lack of linguistic assistance and the lack

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

of a bilingual ballot in the election of March 10 and 11, 1993. Accordingly, the Board's decision in the instant case must not be construed as grounds for holding a run-off or rerun election in every instance when a tie vote occurs in the future.

DATED this 1st day of April, 1993.

LOCAL GOVERNMENT EMPLOYEE-
MANAGEMENT RELATIONS BOARD

By 
SALVATORE C. GUGINO, Chairman

By Tamara Barengo
TAMARA BARENGO, Vice Chairman

By 
HOWARD ECKER, Member