

Allstate Insurance Company and Allstate Agents Association. Case 29-CA-5135

September 20, 1979

SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN FANNING AND MEMBERS JENKINS
AND MURPHY

On January 11, 1978, the National Labor Relations Board issued its Decision and Order in the above-entitled proceeding, finding that Respondent violated Section 8(a)(5) and (1) of the Act by refusing to bargain with the Union as the exclusive bargaining representative of its employees in an appropriate unit of insurance salesmen during the pendency of Respondent's request for review of the Regional Director's Report on Objections and Certification of Representative in Case 29-RC-3112.² The Board therefore ordered Respondent to cease and desist from such unlawful conduct and, upon request, to bargain collectively with the Union with respect to rates of pay, wages, hours, and other terms and conditions of employment of unit employees, and, if an understanding is reached, to embody such understanding in a signed agreement.

On December 8, 1978, the United States Court of Appeals for the Seventh Circuit³ found that the Board's Order is entitled to enforcement. Specifically, the court found that, even though Respondent began negotiations with the Union after review had been denied by the Board, the Board's Order was proper and entitled to enforcement. The court rejected Respondent's contention that the case is rendered moot because the Union is now defunct, in view of Respondent's past violation and the right of the Board to enjoin future similar misconduct. Finally, the court, rather than amending the Board's Order to delete specific reference to the defunct Union, remanded the proceeding to the Board for the limited purpose of inquiring into the facts concerning the present status of the Union and the possible need to modify the relief provisions of the Board's Order.

On January 25, 1979, all parties were requested to file with the Board statements of position in light of the court's remand. Thereafter, the General Counsel, the Union, and Respondent each filed a statement of position.

Pursuant to Section 3(b) of the National Labor Relations Act, as amended, the National Labor Rela-

tions Board has delegated its authority in this proceeding to a three-member panel.

The Board has duly considered the statements of position of the General Counsel, the Union, and Respondent⁴ and has decided to amend its bargaining Order pursuant to the court's recommendation on remand, by deleting the name of the Union and requiring instead that Respondent bargain with any duly certified representative of its employees in the designated appropriate unit. In addition, we shall revoke the Union's certification in view of the consensus of the parties that the Charging Union has disbanded.

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts its original Order, reported at 234 NLRB 193 (1978), as modified below:

1. Substitute the following for paragraph 1(a) of the Board's original Order:

"(a) Refusing to bargain collectively concerning rates of pay, wages, hours, and other terms and conditions of employment with any duly certified representative of its employees in the following appropriate unit:

"All insurance salesmen, including retail agents, accounts agents, senior account agents, general agents, account executives, agent-trainees, direct agents, and assistant district sales managers at Huntington Station, New York, excluding all other employees, supervisors, and guards, as defined in the Act."

2. Substitute the following for paragraph 2(a):

"(a) Upon request, bargain with any duly certified representative of all employees in the aforesaid appropriate unit with respect to rates of pay, wages, hours, and other terms and conditions of employment, and, if an understanding is reached, embody such understanding in a signed agreement."

3. Add the following paragraph to the Board's original Order:

"IT IS FURTHER ORDERED that the certification issued in Case 29-RC-3112 on July 14, 1976, certifying the Allstate Agents Association as the collective-bargaining representative of employees in a unit of all insurance salesmen including retail agents, accounts

⁴ On February 6, 1979, the Charging Party by its attorney advised the Board by letter that it had disbanded and had no interest in proceeding further. By February 7 letter, Respondent, in effect, confirmed that the Charging Union had disbanded and urged the Board that there was no need to post notices noting that it had bargained to impasse as of December 1, 1977. By letter of February 9, counsel for the General Counsel noted that the association (the charging union was not now in existence) urged no further order by the Board, but suggested that, in that event, the certification be revoked.

¹ 234 NLRB 193 (1978).

² Case 29-RC 3112 is not reported in printed volumes of the Board's Decisions.

³ 85 LC ¶11,200.

agents, senior account agents, general agents, account executives, agent-trainees, direct agents, and assistant district sales managers, excluding all other employees, supervisors, and guards, as defined in the Act, at the Respondent's location at Huntington Station, New York, be, and it hereby is, revoked."

4. Substitute the attached notice for that originally ordered to be posted.

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

WE WILL NOT refuse to bargain collectively concerning rates of pay, wages, hours, and other terms and conditions of employment with any duly certified representative of the employees in the bargaining unit described below in the future.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce our employees in the exercise of the rights guaranteed them by Section 7 of the Act.

WE WILL, upon request, bargain with any duly certified representative of all employees in the bargaining unit described below, with respect to rates of pay, wages, hours, and other terms and conditions of employment, and, if an understanding is reached embody such understanding in a signed agreement. The bargaining unit is:

All insurance salesmen, including retail agents, accounts agents senior account agents, general agents, account executives, agent-trainees, direct agents, and assistant district sales managers at Huntington Station, New York, excluding all other employees, supervisors, and guards, as defined in the Act.

ALLSTATE INSURANCE COMPANY