

In the Matter of WYATT METAL AND BOILER WORKS *and* UNITED STEELWORKERS OF AMERICA *and* UNION OF EMPLOYEES OF THE WYATT METAL AND BOILER WORKS, A PARTY TO THE CONTRACT

Case No. 16-C-962.—Decided March 20, 1944

Mr. Bliss Daffan, for the Board.

Mr. Ralph W. Malone, of Dallas, Tex., and *Mr. Tom M. Davis*, of Houston, Tex., for the respondent.

Mr. W. A. Leigh, of Dallas, Tex., for the Union.

Messrs. William Hix and *Troy O. Rogers*, of Dallas, Tex., for the Employees' Union.

Mr. Harry H. Kuskin, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

Upon a charge duly filed on May 20, 1943, by United Steelworkers of America, herein called the Union, the National Labor Relations Board, herein called the Board, by the Regional Director for the Sixteenth Region (Fort Worth, Texas), issued its complaint dated August 17, 1943, against Wyatt Metal and Boiler Works, Dallas, Texas, herein called the respondent, alleging that the respondent had engaged in and was engaging in unfair labor practices affecting commerce, within the meaning of Section 8 (1) and (2) and Section 2 (6) and (7) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. Copies of the complaint and of notice of hearing thereon were duly served upon the respondent, the Union, and the Union of Employees of the Wyatt Metal and Boiler Works, herein called the Employees' Union.

The respondent filed an answer, dated August 26, 1943, in which it denied that it had engaged in the unfair labor practices alleged and prayed that the complaint be dismissed.

Pursuant to notice, a hearing was held at Dallas, Texas, from August 30, through September 10, 1943, before Max G. Baron, Trial Ex-

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aminer, duly designated by the Chief Trial Examiner. The Board, the respondent, the Union, and the Employees' Union participated in the hearing by their representatives.

Thereafter, the Trial Examiner issued his Intermediate Report, dated December 29, 1943, copies of which were duly served upon the respondent, the Union, and the Employees' Union. He found that the respondent had engaged in and was engaging in unfair labor practices affecting commerce, within the meaning of Section 8 (1) and (2) and Section 2 (6) and (7) of the Act, and made certain recommendations pertaining thereto. On January 28, 1944, the respondent filed exceptions to the Intermediate Report, alleging, *inter alia*, that the respondent had been denied full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues at the hearing.

A review of the record reveals that numerous rulings were made by the Trial Examiner during the course of the hearing which prevented the respondent from introducing evidence which was competent, relevant, and material to the issues. Thus, the Trial Examiner erroneously restricted the respondent in its cross-examination of Board witnesses for the announced reason, with which we do not agree, that "counsel [for the respondent] will be denied the right to lead witnesses on cross-examination who have not shown any hostility and are not adverse witnesses to the respondent." In another such instance, the Trial Examiner ruled that counsel for the Board need not exhibit to the respondent, for the purpose of cross-examination of a Board witness, a document which had previously been shown to that witness by the Board's counsel and withdrawn without being marked in evidence. Accordingly, we shall order that the record, with the exception of the charge and the pleadings, be set aside and that a new hearing be held.

ORDER

Pursuant to Section 10 (c) of the National Labor Relations Act, and Article II, Section 35, of National Labor Relations Board Rules and Regulations—Series 3,

IT IS HEREBY ORDERED that the record in the above case, with the exception of the charge and the pleadings, be, and it hereby is, set aside; and

IT IS FURTHER ORDERED that the proceeding be, and it hereby is, referred to the Regional Director for the Sixteenth Region for the purpose of a new hearing.