

In the Matter of MONARCH ALUMINUM MFG. COMPANY *and* INTERNATIONAL UNION OF MINE, MILL & SMELTER WORKERS, CASTING DIVISION (CIO)

Case No. 8-R-1275

SUPPLEMENTAL DECISION

AND

CERTIFICATION OF REPRESENTATIVES

April 14, 1944

On December 15, 1943, pursuant to the Decision and Direction of Election issued by the Board herein on November 29, 1943,¹ an election by secret ballot was conducted under the direction and supervision of the Regional Director for the Eighth Region (Cleveland, Ohio). Upon the conclusion of the election, a Tally of Ballots was furnished the parties in accordance with the Rules and Regulations of the Board.

The Tally shows that of the approximately 913 eligible voters, 657 cast valid votes, of which 351 were for Aluminum Workers Organization, Inc., herein called the Independent, 280 were for International Union of Mine, Mill & Smelter Workers, Casting Division (CIO), herein called the C. I. O., 26 were for neither, and 33 were challenged ballots.

Thereafter, on December 20, 1943, the C. I. O. filed Objections to the conduct of the election, contending that the Company had interfered with the rights of employees freely to choose a bargaining representative. In his Report on Objections, the Regional Director found that the objections raised substantial and material issues respecting the election and recommended that the results of the election be set aside and a new election conducted. Following the Regional Director's Report on Objections, the Independent filed exceptions to the findings and recommendations therein contained.

On February 24, 1944, it appearing that the Objections filed by the C. I. O. raised substantial and material issues with respect to the conduct of the ballot, the Board ordered a hearing on the Objections.

Pursuant to notice duly served upon the parties, a hearing on said Objections was held on March 16 and 17, 1944, at Cleveland, Ohio,

¹ 53 N. L. R. B. 756.

55 N. L. R. B., No. 245.

before Robert F. Koretz, Trial Examiner. The Board, the Company, the C. I. O., and the Independent appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Upon the entire record in the case, the Board makes the following:

SUPPLEMENTAL FINDINGS OF FACT

1. *Attendance at an Independent meeting by employees on company time*

On the afternoon of Sunday, December 12, 1943, 3 days before the election, the Independent held a meeting at a hall near the plant of the Company. At or before 3 o'clock in the afternoon, which hour marked the beginning of the second shift on Sunday, about 22 female employees of Department 24 punched the time clock and proceeded to the department. Meyers, the foreman of the department, had not yet arrived. The said 22 employees then left the plant without punching out their time, attended the meeting of the Independent, and returned to work at various times ranging from about 3:30 to 4 p. m. Foreman Meyers, who had reported for work about 15 minutes late, was present when they returned. He asked some of the employees where they had been and was informed that they had attended the Independent meeting. The foreman indicated his displeasure at their conduct but took no disciplinary action. On the next day he approved their time cards which included the time which they had spent at the meeting. He did not report such conduct to the higher management although it was his duty to do so. His explanation of his failure to make such a report was that he "figured" that the employees could make up the production lost by their absence and that he felt that their fault was no greater than his since he also was late.

Although the employees were thus paid for time spent at the meeting, this fact did not come to the attention of the pay-roll department or of officials to whom Meyers was responsible until the investigation of the objections to the election by an agent of the Board near the end of January 1944. Moreover, payment for such time was not made until after the election, prior to which the employees had no reason to believe that they would receive pay for the time spent at such meeting.²

² There is no evidence that any representative of management authorized or knowingly permitted the employees to attend the Independent meeting on company time or subsequently informed the employees prior to the election that they would receive pay for the time spent at such meeting

2. *Attendance of "supervisor" Rogos at an Independent meeting*

John Rogos, self styled supervisor of the night shift in the inspection department, attended the above-mentioned meeting of the Independent on the afternoon of December 12, 1943. However, the evidence discloses that Rogos, who had been a member of the Independent for a considerable period of time, attended the meeting on his own time, did not take an active part in the meeting and so far as appears did not attempt at any time to influence the votes of employees in the election.³

The evidence as to the supervisory status of Rogos is to the effect that he checks the work of four to seven female employees on the night shift. He has, however, no authority to hire or discharge employees, to grant wage increases or to recommend such action. Although possessing minor supervisory duties,⁴ Rogos is not considered by the Company as representative of management, and did not attend a meeting of foremen called by the Company prior to the election for the purpose of instructing foremen as to the necessity of remaining neutral in union matters. In addition thereto, it appears that Rogos as distinguished from the regular foremen employed by the Company, is paid on an hourly basis rather than by weekly salary as is customary with foremen and has on several occasions been solicited by various employees to join the C. I. O.

3. *The pro-Independent and anti-C. I. O. speech by employee Carns*

On December 14, 1943, the day before the election and about 2 minutes prior to the close of the 10-minute morning rest period, the department committee woman of the Independent for Department 24 summoned the women employees, who were gathered in the rest room, to come into the department to hear a speech. There they heard one Walter Carns, an employee, who stood upon a barrel and addressed between 30 and 40 employees for about 10 minutes, said speech extending beyond the close of the rest period. Carns stated in substance that the employees should not vote for the C. I. O.; that they would be better off with the Independent; and that no higher wages could

³ The record indicates that Rogos had studiously avoided active participation in the election campaign. Although a member of the Independent, Rogos testified that he had made no attempt to solicit votes for that organization and that when approached by members of the C. I. O., he merely stated that he wished to be left alone.

⁴ The supervisory duties of Rogos, which do not include any of the duties usually held by foremen, are apparently limited to seeing that the female employees in his group perform their work properly. While a failure on the part of any such employee to do her work in a proper manner would be reported by Rogos to the chief inspector, there is nothing in the record to indicate that the report would be accompanied by any recommendation to the chief inspector who, the evidence discloses, makes his own investigation in such cases and thereafter takes appropriate action.

be secured for the employees because of the limitations imposed upon wage increases by the National War Labor Board.

According to a witness for the C. I. O., the department foreman was standing only a few feet away from Carns during the speech and made no effort to stop it or cause the employees to return to their work. The same witness testified that the floorlady of the department was in the rest room when the employees were summoned to hear the speech and that the floorlady left the rest room with the employees and stood behind the witness when the speech began. No other witnesses were called by the C. I. O. to corroborate the testimony of this witness, although according to the witness' testimony there were present when the speech was made some 30 to 40 employees, of whom one was named by the witness as present at the hearing.

In opposition to the testimony of the witness aforesaid, both the department foreman and the floorlady mentioned by the witness denied being present during the speech in question. The foreman testified that he had left the department shortly before the beginning of the rest period and had gone to the maintenance department on a specified errand and that he returned after the conclusion of the rest period, as which time most of the employees were at work and the remainder returning to their machines. The foreman also testified that he did not hear of Carns' speech until that afternoon and that he reprimanded Carns for his conduct in connection therewith. The floorlady testified that she was not at work on the day specified because of illness. Her testimony was corroborated by the Company's attendance records which establish that she was absent on the day in question.

4. *Conclusions*

The C. I. O. contends that the various acts described above are sufficient to prove material interference with the conduct of the election. So far as the attendance of the employees at the meeting of the Independent is concerned, the record indicates that, even assuming a desire on the part of the Company to indicate a preference for the Independent by paying for the time spent by the employees at the meeting of that organization,⁵ the action of the Company in paying for such time could not in any way have influenced the employees in the choice of a bargaining representative, since the employees had

⁵ The Board has on a number of occasions found interference and unlawful support of a labor organization where it appears that a company openly permitted its employees to attend union meetings during working hours without loss of pay for the time spent. See *Matter of Todd Shipyards Company*, 5 N. L. R. B. 20; *Matter of Pilot Radio Corp.*, 14 N. L. R. B. 1084; *Matter of Schwarze Electric Company*, 16 N. L. R. B. 246; *Matter of Blossom Products Corp.*, 20 N. L. R. B. 335

no reason to believe prior to the election that they would receive pay for the time spent at such meeting.

With respect to the attendance of Rogos at this meeting, the failure of the evidence to establish that Rogos is or is reasonably regarded as a representative of management,⁶ or that he has engaged in conduct of a nature calculated to influence the employees of the Company in the casting of their ballots, leaves little or no support for any objection based thereon.

The same conclusion is equally applicable to the third and last objection based on the pro-Independent and anti-C. I. O. speech by employee Carns. While there can be no doubt upon the evidence that the speech by Carns occurred on company time and property, the weight of the evidence would indicate that this speech took place in the absence of supervisory employees and in violation of instructions issued by a representative of management with respect to campaign activities within the plant.⁷ Accordingly, we are of the opinion that the incident in question was largely of a spontaneous nature and something for which the Company was not responsible, since it arose notwithstanding the efforts of the Company's foreman to prevent demonstrations of this character upon company property.⁸

Upon the basis of the whole record, we find that the election fairly represented the untrammelled wishes of the Company's employees and constituted a fair test of the employees' desires as to representation. For these reasons, and in view of the election results, we shall, in accordance with a motion filed by the Independent, overrule the Objections of the C. I. O. and certify the Independent as bargaining representative of the employees within the unit hereinbefore found appropriate for the purposes of collective bargaining.

CERTIFICATION OF REPRESENTATIVES

By virtue of and pursuant to the power vested in the National Labor Relations Board by Section 9 (c) of the National Labor Relations Act, and pursuant to Article III, Sections 9 and 10, of National Labor Relations Board Rules and Regulations—Series 3,

⁶ The Board has on occasion found unlawful interference where representatives of management have been present at meetings of labor organizations. See *Matter of Idaho Refining Company*, 47 N. L. R. B. 1127.

⁷ The department foremen testified that following the meeting of foremen at which all foremen were instructed to maintain a neutral attitude in the election, he gave instructions to the floorlady that employees should not be permitted to gather in groups on the floor of the plant.

⁸ There is nothing in the record from which it can be inferred that the Company was more lenient in permitting Independent activity in the plant than it was in permitting similar activity on the part of the C. I. O. The evidence indicates that, despite regulations to the contrary, the adherents of both the Independent and the C. I. O. were allowed considerable latitude in engaging in union activity within the plant.

IT IS HEREBY CERTIFIED that Aluminum Workers Organization, Inc., has been designated and selected by a majority of all production and maintenance employees of Monarch Aluminum Mfg. Company, Cleveland, Ohio, including regular part-time employees, watchmen, and laboratory assistants, but excluding office and clerical employees, timekeepers, technical employees, guards, and supervisors with authority to hire, promote, discharge, discipline or otherwise effect changes in the status of employees, or effectively recommend such action, as their representative for the purposes of collective bargaining, and that, pursuant to Section 9 (a) of the Act, the said organization is the exclusive representative of all such employees for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other conditions of employment.

CHAIRMAN MILLIS took no part in the consideration of the above Supplemental Decision and Certification of Representatives.