

In the Matter of G. LEVOR & COMPANY, INC. and LOCAL 202, INTERNATIONAL FUR AND LEATHER WORKERS UNION, C. I. O.

Case No. 3-R-609

SUPPLEMENTAL DECISION

AND

CERTIFICATION OF REPRESENTATIVES

May 16, 1944.

On September 8, 1943, pursuant to the Decision and Direction of Elections issued by the Board herein on August 12, 1943,¹ an election by secret ballot was conducted under the direction and supervision of the Regional Director for the Third Region (Buffalo, New York). On September 11, 1943, acting pursuant to the Rules and Regulations of the Board, the Regional Director issued and duly served upon the parties his Report on Ordered Election:

The Report on Ordered Election shows that of approximately 278 eligible voters, 252 cast valid ballots, of which 99 were for Local 202, International Fur and Leather Workers' Union, affiliated with the Congress of Industrial Organizations, 152 were for Adirondack Leather Workers' Union, 1 for neither, and 9 were challenged ballots.

Thereafter Local 202, International Fur and Leather Workers' Union, C. I. O., herein called the C. I. O., filed Objections to the conduct of the election, contending that the Company had committed unfair labor practices and that both the Company and Adirondack Leather Workers' Union, herein called the Independent, had interfered with the rights of the employees freely to choose a bargaining representative. In his Report on Objections, the Regional Director found that the objections raised substantial and material issues and recommended that the Board direct a hearing thereon.

On November 27, 1943, it appearing that the objections filed by the C. I. O. raised substantial and material issues with respect to the election, the Board ordered a hearing on the objections considered in paragraphs 2 and 3 of the Regional Director's Report on Objections.

Pursuant to notice duly served upon the parties, a hearing on said objections was held from February 10 to 17, 1944, at Gloversville, New

¹ 51 N L R B 1248

56 N L R B. No 110

York, before Josef L. Hektoen, 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. A stipulation of the parties correcting the transcript of the testimony in certain particulars is hereby approved and incorporated as part of the record herein. 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. *The claim that the Independent was favored and the C. I. O. denied an opportunity to electioneer in the plant*

Throughout the progress of the campaign which preceded the election, each of the several unions involved distributed literature in the plant, both during and before working hours. Although the Company had announced to the Independent and the C. I. O. that no electioneering would be allowed in the plant on Company time, it took no action with respect to such distributions. The evidence reveals no favoritism in the matter; either in behalf of the Independent or the C. I. O. We find that the objection based on the alleged favoritism of the Company with regard to electioneering in the plant, has no substantial support in the evidence as contained in the present record. The objection is, accordingly, overruled.

2. *The claim that Max Eiseman, Merle Canfield and Nunzio di Caprio are supervisory employees and manifested anti-C. I. O. bias during the pre-election period.*

Max Eiseman works in the tanning department where he is employed as a "choreman." His duties consist of putting skins in drums, mixing and feeding chemicals into the drums, and watching the controls while the drums are in operation. In addition thereto, he also performs general work such as cleaning up after the day's work is over. With him as helpers in the loading and feeding of the drums are three employees to whom he relays and interprets the instructions of the foreman of the department with respect to the operation of the drums in question. The only other evidence of control exercised by Eiseman is to the effect that he occasionally "reminds" the men working with him as to the feeding of the drums and tells them to prepare water in connection therewith.² While Eiseman receives 7 cents per

² Eiseman testified that the men helping him on the drums generally do their work without directions, that in the event of any real difficulty in the operation of the drums he would not attempt to straighten out the situation himself, but would consult the foreman of the department and let him decide what should be done under the circumstances.

hour more than the men associated with him on the drums, this is due to the fact that he handles dangerous chemicals used in preparing the solutions required for the drum operations. In view of the above evidence, we find that Eiseman is not a supervisory employee for whose activities in connection with the election the Company may properly be held responsible.

Merle Canfield works in the beam shop where he does general work including the washing and trimming of skins and the operation of the fleshing machine. In addition thereto, Canfield also handles chemicals in connection with the "sulphite treatment" and for this particular duty receives an added hourly compensation similar to that received by Eiseman. The only evidence of supervisory capacity had to do with alleged invitations by Canfield to various employees to work overtime and the giving of instructions or directions to such employees when engaged in overtime operations during the absence of the foreman for the department. While four witnesses for the C. I. O. testified that Canfield had asked them on different occasions if they would like to work overtime and had directed overtime operations, Canfield denied that he had ever directed any employees to work overtime or assumed that he possessed such supervisory authority. He further testified that he did not direct any of the overtime operations as the latter cover routine matters requiring no supervision.

The testimony of Canfield is supported by that of Albert Ruf, the department foreman, together with the testimony of four other employees in the beam shop. We find that the weight of the evidence does not support the allegation of the C. I. O. that Canfield is a supervisory employee; neither does it establish that he has assumed the attitude of a supervisory employee in the sense that his activities with regard to the election may be attributed to the Company in the present instance.³

Nunzio di Caprio, who is "leader" of the "bull gang," or outside crew, is an hourly paid worker, who by reason of his experience and skill receives a slightly higher wage than that received by the other men in the gang, consisting of between six and nine employees with whom he works performing the same type of manual labor as the other members of the crew. While di Caprio admittedly relays instructions from the foreman, he has no supervisory authority, other than the usual duties of leader and has never disciplined any members of the group with which he has worked. We find, accordingly, that di Caprio is not a supervisory employee for whose activities in connection with the election the Company is responsible.

³ The record reveals that both Canfield and Eiseman were, after a conference of the parties, included in the list of employees eligible to vote at the election.

Since we have found that Eiseman, Canfield and di Caprio are not supervisory employees, we find it unnecessary to consider the activities of such employees as bearing upon the election. Upon the basis of the entire record, we find 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 the motions filed by the Company and the Independent, overrule the Objections of the C. I. O. and certify the Independent as bargaining representative for the employees within the unit heretofore 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,

IT IS HEREBY CERTIFIED that Adirondack Leather Workers' Union has been designated and selected by a majority of all employees of G. Levor & Company, Inc., Gloversville, New York, excluding executives, foremen, assistant foremen, all other supervisory employees with authority to hire, promote, discharge, discipline or otherwise effect changes in the status of employees, or effectively recommend such action, watchmen, firemen, maintenance employees, office employees, salaried workers, and all clerical employees, 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.