

In the Matter of GENERAL AMERICAN AEROCOACH COMPANY and  
UNITED STEELWORKERS OF AMERICA, CIO

In the Matter of GENERAL AMERICAN AEROCOACH COMPANY and  
UNITED OFFICE AND PROFESSIONAL WORKERS OF AMERICA, CIO

*Cases Nos. 13-R-2260 and 13-R-2269, respectively*

SUPPLEMENTAL DECISION

AND

CERTIFICATION OF REPRESENTATIVES

*July 12, 1944*

On April 17, 1944, the National Labor Relations Board issued its Decision and Direction of Election in this proceeding.<sup>1</sup> Pursuant to the Direction of Election, an election by secret ballot was conducted on May 5, 1944, under the direction and supervision of the Regional Director for the Thirteenth Region, Chicago, Illinois. Upon the conclusion of the balloting, the Regional Director, pursuant to Article III, Section 10 of National Labor Relations Board Rules and Regulations—Series 3, issued and duly served on the parties a Tally of the Ballots. No Objections to the conduct of the election were filed by any of the parties within the time provided therefor.

As to the balloting and its results, the Tally shows as follows:

Approximate number of eligible voters.....	186
Valid votes counted.....	156
Votes cast for United Steelworkers of America, CIO.....	85
Votes cast for United Construction Workers, Division of District 50, United Mine Workers of America.....	67
Votes cast against participating unions.....	4
Challenged ballots.....	44
Void ballots.....	1

On June 20, 1944, the Regional Director issued and served on the parties, his Report on Challenged Ballots to which United Construction Workers, Division of District 50, United Mine Workers of America, herein called the UCW, has excepted. All of the challenges were made by representatives of the Board's Regional Office. Twenty-

<sup>1</sup> 55 N. L. R. B. 1377.

57 N. L. R. B., No 38.

eight challenges were directed to the ballots of employees whose names appeared on the pay roll used to determine eligibility to vote but who prior to the election were transferred to another plant of the Company. After investigation, the Regional Director recommends that the transfers be regarded as permanent and that the challenges be sustained. The UCW argues that the 28 employees fulfilled the conditions requisite for participation in the election in that their names appeared on the designated pay roll and none has since quit or been discharged for cause. It argues further that in the absence of conclusive evidence it is as reasonable to suppose that the transfers were temporary as otherwise. We agree, however, with the Regional Director that in the absence of evidence of a contrary intent, the transfers must be regarded as permanent. Thus our rule is here applicable that an employee transferred from an eligible category prior to an election cannot participate in an election among the employees in the group from which he was transferred.<sup>2</sup> As to 2 of the 28, Paul M. Porter and Harry Speck, who were retransferred to the East Chicago plant prior to the election, the presumption of permanent transfer is negated. Porter and Speck were listed on the pay roll used to determine eligibility to vote and were employed in the voting unit on the day of the election. Hence, their ballots should have been counted. In accordance with these conclusions, we hereby overrule the challenges to the ballots of Porter and Speck and sustain the challenges to the ballots of the remaining 26 transferred employees.

Board representatives also challenged the ballots of 16 employees on the ground that they possessed supervisory authority. In his report on challenges the Regional Director recommends that the 16 ballots be opened and counted for the reason that the employees who cast them possess a minimum of supervisory authority within sharply circumscribed limits.<sup>3</sup> While it is apparent that none of the 16 is in the higher strata of management, each has authority to recommend changes in the status of employees and each wears a badge bearing the designation "Supervisor." The Company has thus vested them with apparent authority and has invited and required the production employees to regard those wearing the badge as representatives of management. We conclude that the 16 employees are vested with supervisory authority and the challenges to their ballots are hereby sustained.

We have sustained the challenges to 42 of the 44 challenged ballots. The challenges which we have overruled cannot affect the result of the election and we shall not order that the 2 ballots to which they

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<sup>2</sup> See *Matter of Phelps Dodge Corporation, Copper Queen Branch, Smelter Division*, 36 N. J. R. R. 657

<sup>3</sup> The UCW did not except to this recommendation and urges that the 16 ballots be opened and counted

were directed be opened and counted. Since the result reveals that the employees in the East Chicago plant have designated the United Steelworkers of America, CIO, as their bargaining representative, we shall find that the employees at that plant constitute an appropriate bargaining unit, and shall certify as their statutory representative the union selected by them.

Upon the entire record in the case and the result of the election, the Board makes the following:

#### SUPPLEMENTAL FINDINGS OF FACT

We find that the production and maintenance employees of the Company at its East Chicago plant, excluding all office and clerical employees and supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the Act.

#### 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, 10 and 11, of National Labor Relations Board Rules and Regulations—Series 3,

IT IS HEREBY CERTIFIED that United Steelworkers of America, CIO, has been designated and selected by a majority of all production and maintenance employees of General American Aerocoach Company, East Chicago, Illinois, excluding office and clerical employees, and supervisory employees 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 aforesaid 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.

[See *infra*, 57 N. L. R. B. 870 for Amendment to Supplemental Decision and Order.]