

In the Matter of ELECTRICAL UTILITIES COMPANY and DISTRICT 50,
UNITED MINE WORKERS OF AMERICA

Case No. 13-R-2237

DECISION
AND
ORDER SETTING ASIDE ELECTION

July 18, 1944

On March 13, 1944, the National Labor Relations Board, herein called the Board, issued its Decision and Direction of Election in this proceeding.¹ Pursuant to the Direction of Election, an election by secret ballot was conducted on April 7, 1944, under the direction and supervision of the Regional Director for the Thirteenth Region (Chicago, Illinois). On April 7, the Regional Director issued and duly served upon the parties a Tally of Ballots. As to the balloting and its results, the Tally of Ballots showed as follows:

Approximate number of eligible voters.....	237
Valid votes counted.....	222
Votes cast for Local B-321, International Brotherhood of Electrical Workers, Affiliated with the American Federation of Labor ²	23
Votes cast for Electrical Utilities Workers, Local Union No. 12765, District 50, United Mine Workers of America ³	62
Votes cast against participating unions.....	137
Challenged ballots.....	0
Void ballots.....	0

On April 10, 1944, District 50 filed Objections to the Election, alleging, in substance, that Electrical Utilities Company, herein called the Company, had engaged in certain conduct preventing a free choice of representatives. Thereafter, the Regional Director investigated the Objections, and on April 27, 1944, issued and duly served on the parties his Report on Objections in which he found that the Objections raised substantial and material issues with respect to the election and

¹ 55 N. L. R. B. 457.

² An intervenor in the proceeding.

³ The petitioner, herein called District 50, received permission to be placed on the ballot as its name appears above.

⁴ 57 N. L. R. B., No. 75.

recommended that the Board order a hearing on said Objections. On May 3, 1944, the Company filed Exceptions to the Regional Director's Report on Objections.

On May 10, 1944, the Board, having duly considered the matter, determined that the Objections raised substantial and material issues with respect to the election, and issued an Order overruling the Company's Exceptions, directing a hearing on the Objections, and referring the case to the Regional Director for the purpose of conducting such hearing. The hearing on Objections was held at La Salle, Illinois, on June 9, 1944, before Howard Myers, Trial Examiner. The Board, the Company, and District 50 appeared and participated, and all 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. The Company and District 50 filed briefs with the Board which have been duly considered.

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

FINDINGS OF FACT

On April 5, 1944, a notice of the forthcoming election was posted in the torch soldering department of the Company's La Salle, Illinois, plant. Between 10:15 and 10:30 of that morning, according to employee Arneita Dicken's testimony, Vice-President and Treasurer Julius P. Rossberg and Foreman Freeman A. McLaughlin stopped to read this notice. In answer to a question propounded by counsel for the Board, Dicken testified as follows concerning what then transpired:

I heard Mr. Rossberg say to Mr. McLaughlin that if the employees knew what was good for them they would vote for "No union," as they could move the company back to Chicago as quick as they brought it down to La Salle.⁴

Dicken further testified that at that time she was working near the posted notice of election. Employee Betty Krueger, who was then also in the immediate vicinity, corroborated in all details Dicken's testimony concerning Rossberg's utterance.

Although Rossberg denied that he made this statement or that he was with McLaughlin in the torch soldering department between 10:15 and 10:30 a. m. of April 5, he conceded that he could not particularly recall that day. When asked on cross-examination if he had been

⁴ Employees of the Company's La Salle plant are affected by this proceeding. Originally, the Company was engaged in business solely at Chicago, Illinois. On July 3, 1943, however, the La Salle plant was opened and most of the Company's operations are now performed there.

in the torch soldering department on the morning of April 5, he stated that he did not remember. Moreover, he admitted that he customarily walks through the entire La Salle plant several times a day. We are of the opinion that Dicken and Krueger are credible witnesses and we find that Rossberg made the statement attributed to him by them.⁵

Dicken also testified that during the morning of April 5, McLaughlin, after observing the steward's button she was wearing, stated to her, "You will never gain anything by wearing that. The union will never get in here. Another thing, the union will promise you a lot and the only thing they will give you is dirt." She testified further that, in passing the drinking fountain during the rest period that afternoon, she overheard McLaughlin tell three or four other employees, "Don't vote for the union, the company is against the union. The intention of the company is that if the union gets in here they are going to move back to Chicago."

Employee Florence Ricci testified that while speaking to McLaughlin during election hours on April 7, he told her that he hoped she would vote "the right way" by placing an "X" in the space designated on the ballot for "No Union", and that when she answered she would do so, McLaughlin "patted" her on the back and stated she was his "pal" and "would be taken care of."⁶

McLaughlin denied making these statements. As to all other matters his recollection was vague. Thus, he could neither remember when notices of the election were posted, nor could he recall seeing the one placed in the torch soldering department. He was unable to recollect whether or not Dicken wore a steward's button. Furthermore, despite his testimony that he is usually about the drinking fountain during the afternoon rest period, he could not recall whether he was there on the afternoon of April 5. In view of these facts and on the basis of the entire record, we do not credit McLaughlin's denials. We find that Ricci is a credible witness, and we further find that McLaughlin made the statements attributed to him by Dicken and Ricci.

Gertrude Feldhaus, also an employee, testified that on the morning of the election, Forelady Margaret Pelkey Morell remarked to her that, "she had heard that [Feldhaus] was for the union and she thought [Feldhaus] was foolish. That [Feldhaus] was not getting anything from them, that [Feldhaus] would not gain anything from

⁵ McLaughlin also denied that Rossberg made the statement in question. As hereinafter indicated, however, we do not credit McLaughlin's denials.

⁶ Ricci also testified that on April 10, 3 days after the election, McLaughlin approached her and said, "Flo, I am awfully sorry I spoke to you the way I did on election day. If I knew you were serving on the committee for the union I would not have spoken to you that way."

it" Feldhaus' testimony is undenied and we find that Morell made this statement.⁷

We find that the Company's above-described course of conduct during and immediately preceding the election prevented an expression by its employees of their free and uncoerced wishes as to representation. We shall, therefore, set the election aside. We shall direct a new election at such time as the Regional Director advises us that circumstances permitting a free choice among the Company's employees have been restored.

ORDER

IT IS HEREBY ORDERED that the election held on April 7, 1944, among the employees of the Electrical Utilities Company, La Salle, Illinois, be, and it hereby is, set aside.

⁷ Morell failed to testify; no showing was made that she was unavailable as a witness.