In the Matter of THE FIRESTONE TIRE & RUBBER COMPANY (SYNTHETIC RUBBER DIVISION, PORT NECHES, TEXAS) *and* INTERNATIONAL ASSOCIATION OF MACHINISTS, DISTRICT LODGE NO. 31 *and* OIL WORKERS INTERNATIONAL UNION (CIO) *and* PIPE FITTERS LOCAL UNION NO. 195, (AFFILIATE OF UNITED ASSOCIATION OF JOURNEYMAN PLUMBERS & STEAM FITTERS OF THE UNITED STATES AND CANADA, AFL)

Cases Nos. 16-R-831, 16-R-837 and 16-R-900 respectively

THIRD SUPPLEMENTAL DECISION

AND

ORDER

August 3, 1944

On June 15, 1944, pursuant to the Decision and Direction of Elections, issued by the Board herein on May 29, 1944,[1] and the Supplemental Decision and Amendment to Direction of Elections of June 8, 1944,[2] 10 elections by secret ballot were conducted under the direction and supervision of the Regional Director for the Sixteenth Region (Fort Worth, Texas). Upon the conclusion of the elections, Tallies of Ballots were furnished the parties in accordance with the Rules and Regulations of the Board. No objections were filed by any of the parties within the time provided therefor. Nine of the ten elections were conclusive, and, accordingly, on June 27, 1944, the Board issued a Second Supplemental Decision and Certification of Representatives, certifying the successful unions.

As to the balloting and its results in the inconclusive election, the tally shows that of the approximately four eligible voters, one valid vote was cast for the Oil Workers, and none for the Teamsters or neither. Two ballots were challenged.

Since the challenged ballots may affect the result of the election, the Regional Director, on July 5, 1944, issued and duly served upon the parties a Report on Challenged Ballots, recommending that the challenges be sustained. No exceptions to the Report on Challenged Ballots have been filed by any of the parties.

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[1] 56 N. L. R. B 1038
[2] 56 N L R B 1310

The Regional Director reported that the challenged ballots were cast by Lawrence Bowman and Beatrice Bradford. Bowman is listed on the Company's pay roll as a "special laborer." His duties consist of driving a 2½ ton truck in and outside the plant grounds, and in and about the Port Neches area, as necessity demands. Bradford is listed on the pay roll as a dispatcher. Her entire time is occupied in receiving orders, messages, and the like from various departments in the plant, with respect to mechanical breakdowns and intraplant movement of materials, and relaying such orders and messages to the proper personnel or department.

The voting group in which the election was conducted consisted solely of "yak" drivers. These employees drive light trucks which are used within the plant grounds to pick up material at the warehouse and to deliver it to box cars. It is clear, from this description, that Bowman and Bradford are not "yak" drivers and were therefore not eligible to vote in the election. Accordingly, we sustain the challenges of their ballots.

As a result of our ruling on the challenged ballots, only one valid vote has been cast. We do not regard this as a representative vote, and we shall therefore dismiss, without prejudice, the petition filed in Case No. 16–R–837, insofar as it relates to the employees involved herein.[3]

ORDER

Upon the basis of the above findings of fact and the entire record in the case, the National Labor Relations Board hereby orders that the petition for investigation and certification of representatives of employees of The Firestone Tire & Rubber Company (Synthetic Rubber Division, Port Neches, Texas), filed in Case No. 16–R–837, to the extent that it relates to the employees in the voting group involved herein, be, and it hereby is, dismissed, without prejudice.

CHAIRMAN MILLIS took no part in the consideration of the above Third Supplemental Decision and Order.

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[3] See *Matter of Bernard Gold and Jack Wasserman, co-partners, doing business under the name of Gold & Baker,* 54 N L R. B 869.