

In the Matter of THE FLORI PIPE COMPANY and UNITED BROTHERHOOD
OF WELDORS, CUTTERS, AND HELPERS OF AMERICA, LOCAL NO. 15

Case No. 14-R-987.—Decided August 18, 1944

DECISION

AND

DIRECTION OF RUN-OFF ELECTION

On June 14, 1944, pursuant to a Stipulation for Certification Upon Consent Election approved by the Regional Director of the National Labor Relations Board on June 6, 1944, an election by secret ballot was conducted under the direction and supervision of the Regional Director of the Fourteenth Region (St. Louis, Missouri). Immediately thereafter a Tally of Ballots was furnished by the Regional Director to the Flori Pipe Company, herein called the Company, and to representatives of the participating unions.

The Tally indicated that of the approximately 52 eligible voters, 37 cast valid votes of which 16 were for United Brotherhood of Weldors, Cutters, and Helpers of America, Local No. 15, herein called the Weldors, and 10 were cast for International Association of Machinists, AFL, District No. 9, herein called the IAM; 11 ballots were cast for neither union, and 8 ballots were challenged.

Inasmuch as the number of challenged ballots was sufficient affect the results of the election, pursuant to Article III, Section 10, of Rules and Regulations of the National Labor Relations Board, the Regional Director investigated the issues raised by the 8-challenged ballots, and on July 25, 1944, issued and duly served upon the parties copies of his Report on Challenges. No objections to the Tally of Ballots have been received nor have the parties filed any exceptions to the Report on Challenges.

With respect to the challenged ballots, the Regional Director reported as follows:

Ernest Bryant was challenged by the Weldors on the ground that he is a truck driver and hence within a category specifically excluded by the stipulated unit. The Regional Director's report, however, indicates that Bryant spends two-thirds of his time doing production work within the plant and that only one-third of his time is devoted to driving a truck. We therefore agree with the Regional Director's

recommendation that Bryant was eligible to participate in the election.

J. J. Jenkins, L. L. Frank, C. V. Shook, E. Hubbmann, Fred Schweivel, J. Misch, and W. Slover. These seven employees were challenged by the Company and the IAM on the ground that they had been discharged prior to the date of the election and were, therefore, ineligible to vote. The Weldors contend that these employees were merely temporarily laid off and hence eligible to participate in the election. The Regional Director's investigation discloses that, although there may have been some confusion with respect to the use of terminology attendant upon their termination of employment, the individuals being in doubt as to whether they were "fired" or only temporarily "laid off," nevertheless the action of the Company in giving each person his accumulated earnings, his release, and a statement of past earnings, is sufficient evidence that the Company was attempting to effectuate a permanent discharge. We shall, therefore, follow the recommendations of the Regional Director in sustaining the challenges, and hereby declare invalid the ballots of Jenkins, Frank, Shook, Hubbmann, Schweivel, Misch, and Slover.

Inasmuch as the ballot of Bryant cannot affect the results of the election, we shall not direct that it be opened and counted, but instead in accordance with the Paragraph 7 of the Stipulation, we shall direct a run-off election in which the employees will be given an opportunity to decide whether they desire to be represented by the Weldors or by the IAM for the purposes of collective bargaining.

DIRECTION OF RUN-OFF ELECTION

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, Section 9, of National Labor Relations Board Rules and Regulations—Series 3, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with The Flori Pipe Company, St. Louis, Missouri, an election by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from the date of this Direction of Run-off Election, under the direction and supervision of the Regional Director for the Fourteenth Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Sections 10 and 11, of said Rules and Regulations, among the employees who were eligible to vote in the election conducted pursuant to the Stipulation for Certification Upon Consent Election executed on June 3, 1944, but excluding those employees who have since quit or been discharged for cause and

have not been rehired or reinstated prior to the date of the Run-off Election, to determine whether they desire to be represented by United Brotherhood of Weldors, Cutters and Helpers of America, Local No. 15, or by International Association of Machinists, AFL, District No. 9, for the purposes of collective bargaining.

CHAIRMAN MILLIS took no part in the consideration of the above Decision and Direction of Run-off Election.