

In the Matter of SHREVE AND COMPANY and JEWELRY WORKERS UNION
No. 36, INTERNATIONAL JEWELRY WORKERS UNION, A. F. L.

Case No. 20-R-969

SUPPLEMENTAL DECISION

AND

ORDER

August 22, 1944

On April 24, 1944, the National Labor Relations Board, herein called the Board, issued a Decision and Direction of Election in the above-entitled proceeding.¹ Pursuant to the Direction of Election, an election by secret ballot was conducted on May 4, 1944, by the Regional Director for the Twentieth Region (San Francisco, California). Immediately thereafter, the Regional Director, acting pursuant to Article III, Section 10, of National Labor Relations Board Rules and Regulations—Series 3, issued and duly served upon the parties a Tally of Ballots.

As to the balloting and its results, the Regional Director reported as follows:

Approximate number of eligible voters.....	4
Valid votes counted.....	4
Votes cast for Jewelry Workers Union No. 36, International, Jewelry Workers Union, A. F. L.....	2
Votes cast against participating union.....	2
Challenged ballots.....	0
Void ballots.....	0

On May 5, 1944, Jewelry Workers Union No. 36, International Jewelry Workers Union, A. F. L., herein called the Union, filed Objections to the Tally of Ballots on the ground that Shreve and Company, herein called the Company, interfered with the free choice of the employees voting in the election by granting wage increases immediately prior to the date of the election. On June 17, 1944, the Regional Director, having investigated the matter, issued and duly served upon the parties his Report on Objections to Election, in which he stated that the objections of the Union raised substantial and material issues

¹55 N. L. R. B. 1487

57 N. L. R. B., No. 235.

with respect to interference with the election. Thereafter, on June 28, 1944, the Company filed exceptions to this report. Pursuant to an order of the Board, and pursuant to notice, a hearing was held on July 19, 1944, at San Francisco, California, before William P. Webb, Trial Examiner. The Board, the Union, and the Company appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses; and to introduce evidence bearing on the issues. All parties were likewise afforded an opportunity to file briefs with the Board.

Upon the objections of the Union, the Report on Objections, the exceptions of the Company, and the entire record, the Board makes the following:

FINDINGS OF FACT

For the past several years the Union has endeavored to secure for the Company's jewelry mechanics a 35-hour week instead of a 40-hour week at straight time, with time and a half pay for all overtime. On October 17, 1943, the Company applied to the War Labor Board, herein called the W. L. B., for permission to (a) reduce its basic work week for jewelry mechanics to 35 hours; (b) increase the hourly rate for a silver polisher; (c) increase the piece-work-rates for watchmakers; and (d) increase the wage rate of a jeweler. On November 10, the Union, not knowing of the Company application pending before the W. L. B., filed its petition with the Board. On December 7, 1943, the W. L. B. approved the first two requests but disapproved the latter two. The Company failed to advise either the Union or the jewelry mechanics of this approval, but promptly notified the silver polisher of the W. L. B.'s action on his wage increase. Shortly thereafter, the Company filed an appeal with the W. L. B. on behalf of the watchmakers and on January 11, 1944, the W. L. B. reversed its decision. In the letter granting the watchmakers' increase, the W. L. B. requested information concerning their total earnings for each pay period for the ensuing 2 months. On February 15, the Company commenced payment of the increased rate to the watchmakers, and about 1 month later supplied the requested information to the W. L. B.

At a conference held on May 1, 1944, representatives of the Company, the Union, and the Board scheduled the election herein for May 4. That afternoon, the Company, for the first time, notified its jewelry mechanics that the W. L. B. had approved the 35-hour work week and that the Company intended to put the new system into immediate operation. Since the total number of hours worked each week remained constant at about 44, the net result was an increase in wages.

The Union contends that the actions of the Company in failing to disclose to the jewelry mechanics the 5-month-old approval of the

W. L. B. until 3 days prior to the date of the election and the institution of the 35-hour week at that time, constituted an unwarranted interference with the employees' right to select a bargaining representative. The Company defends its actions on the following grounds: The jewelry mechanics and the watchmakers are members of the same international union, and although organized in separate locals, they are represented by the same business agent. For that reason, the Company claims that it was of the opinion that no benefits in working conditions should be given one group without a similar advantage being offered to the other, and it therefore was reluctant to give its jewelry mechanics a raise unless it was in a position to raise the piece rates for its watchmakers. The reason for postponing the raise for the jewelry mechanics until May 1, is allegedly due to the fact that on March 20, when the Company supplied the W. L. B. with the information about the watchmakers, it was in doubt as to whether the W. L. B. would continue its approval of the increase in the light of the new information submitted. It therefore waited approximately 6 weeks before it concluded that the W. L. B. had no objection to the payment of the increased rates. During the middle of April, the Company's president and vice president conferred and decided to put the decreased work week for the jewelry mechanics into effect. May 1 was allegedly chosen as the day for the announcement because it was a Monday, the first day of the week, the first day of the month, and the beginning of a new pay period. However, the Company's concern about equality of treatment for its employees is not borne out by the evidence, since the watchmakers were paid their increase commencing on February 15, while the jewelry mechanics did not receive theirs until 10 weeks later. Furthermore, the watchmakers received their raise retroactively to October 15, 1943, whereas there is no evidence that the jewelry mechanics ever received any retroactive pay. Even though the reasons for the selection of May 1 as the date for the institution of the 35-hour week may have been valid, they do not explain why an announcement of the contemplated change was not made during the half month period from the time that the Company decided to adopt the change and the time that it was actually put into effect.

CONCLUSION

On the basis of the whole record we are compelled to the view that the adoption of the 35-hour week 3 days prior to the election was more than a mere coincidence and we conclude that the Company, by its activities above set forth, interfered with the freedom of its employees to choose a bargaining representative. We shall, therefore, sustain the objections of the Union and set the election aside. When the Regional

Director advises us that the time is appropriate, we shall direct that a new election be held among the Company's employees.

ORDER

Upon the basis of the foregoing findings of fact, the National Labor Relations Board hereby vacates and sets aside the election held in this proceeding on May 4, 1944, and the result thereof.

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