

In the Matter of JASPER WOOD PRODUCTS COMPANY, INC., EMPLOYER,  
and FURNITURE AND VENEER WORKERS LOCAL UNION No. 331, UP-  
HOLSTERERS' INTERNATIONAL UNION OF NORTH AMERICA, AFL and  
UNITED FURNITURE WORKERS OF AMERICA, LOCAL No. 331, CIO

*Case No. 11-RE-7*

SECOND SUPPLEMENTAL DECISION

DIRECTION

AND

ORDER

*January 14, 1948*

On June 4, 1947, the Board issued its Supplemental Decision, Direction, and Order in the instant case,<sup>1</sup> directing that the challenged ballots of George Marks and Earl Meadows be opened and counted, and that a Supplemental Tally of Ballots, reflecting the count of those ballots, be served upon the parties. In addition, the Board ordered that, if the counting of those ballots still rendered inconclusive the results of the election conducted herein on April 10, 1947, a hearing be held to resolve the issues raised with respect to the unopened challenged ballot of Raymond Walls. Subsequently, on June 13, 1947, the Regional Director opened and counted the challenged ballots of George Marks and Earl Meadows, and thereupon issued and duly served upon the parties a Supplemental Tally of Ballots, including therein the count of those ballots.

The Supplemental Tally showed that, of the approximately 230 eligible voters, 223 cast valid votes, of which 112 were for the Upholsterers,<sup>2</sup> 14 were for the Furniture Workers, and 97 were for neither, and that there was 1 unopened challenged ballot.

Inasmuch as the counting of the unopened challenged ballot, namely that of Raymond Walls, was sufficient to affect the results of the

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<sup>1</sup> This Supplemental Decision, Direction, and Order was unpublished. The Board's Decision and Direction of Election herein is contained in 72 N. L. R. B. at p. 1306.

<sup>2</sup> As in our previous Decisions relating to this proceeding, Furniture and Veneer Workers Local Union No. 331, Upholsters' International Union of North America, AFL, and United Furniture Workers of America, Local No. 331, CIO, are herein referred to as the Upholsterers and the Furniture Workers, respectively.

election, a hearing was thereafter held, pursuant to the Board's Order described above, to resolve the issues raised with respect to that ballot.<sup>3</sup> This hearing was duly conducted at Jasper, Indiana, on August 19, 1947, before Clifford L. Hardy, hearing officer. Representatives of the Upholsterers and of the Employer appeared and participated.<sup>4</sup> The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

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

#### SUPPLEMENTAL FINDINGS OF FACT

The Upholsterers challenged the ballot of Raymond Walls on the ground that he was a supervisor and therefore ineligible to vote in the established non-supervisory production and maintenance unit.

On March 15, 1947, the pay-roll eligibility date, and at the time of the election herein, Walls was assigned to the patching section of the Employer's veneer assembly department, where he assisted in the heavy moving, and in the patching, of imperfect veneers. The record shows that Walls received about 10 cents an hour more than the approximately four female employees with whom he worked, and occasionally instructed new employees. However, the record further shows that Walls was hourly paid and punched a time clock, whereas the admitted supervisors received a salary and were not required to punch a clock, and that Walls did not attend meetings of these supervisors. Moreover, Walls lacked authority to hire, transfer, suspend, lay off, recall, discharge, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action. Under these circumstances and upon the entire record in the case, we are of the opinion that Raymond Walls is not a supervisor; and we shall, therefore, overrule the challenge to his ballot and direct that his ballot be opened and counted.

In the event the counting of the ballot of Raymond Walls still renders the results of the election inconclusive, we shall order that the Regional Director thereupon proceed in accordance with Section 203.62 of the Board Rules and Regulations.<sup>5</sup>

<sup>3</sup> The Upholsterers' motion to withdraw its challenge to the ballot of Raymond Walls, filed herein on July 9, 1947, was denied by the Board on July 17, 1947.

<sup>4</sup> Although duly served with notice of hearing, the Furniture Workers did not appear.

<sup>5</sup> At the hearing, the Employer moved that, if a run-off election be conducted herein, the Board establish a current pay-roll eligibility date. The Employer rested its position on the fact that a turn-over among the workers and an increase in the total employee complement from 230 to 268 has added approximately 77 new employees to the unit. The hearing officer referred this motion to the Board. Section 203.62 of our Rules and Regulations provides, *inter alia*, that only employees who were eligible to participate in the original election should be eligible to vote in the run-off election. We are of the opinion that material deviations from these provisions are not warranted and would not promote the interests of good administration of the Act. Accordingly, we hereby deny the Employer's motion. Cf. *Matter of Reed Roller Bit Company*, 61 N. L. R. B. 867.

## DIRECTION AND ORDER

As part of the investigation to ascertain representatives for the purposes of collective bargaining with Jasper Wood Products Company, Inc., Jasper, Indiana, the Regional Director for the Ninth Region shall, pursuant to Section 203.61 of National Labor Relations Board Rules and Regulations—Series 5, within ten (10) days from the date of this Direction, open and count the ballot of Raymond Walls, and thereafter prepare and cause to be served upon the parties a Second Supplemental Tally of Ballots, including therein the count of said challenged ballot; and,

IT IS HEREBY ORDERED, in the event the Second Supplemental Tally of Ballots indicates that the results of the election are still inconclusive, that the case be remanded to the Regional Director for the Ninth Region, who shall thereupon proceed in accordance with Section 203.62 of National Labor Relations Board Rules and Regulations—Series 5.

MEMBER MURDOCK took no part in the consideration of the above Second Supplemental Decision, Direction, and Order.