

In the Matter of WESTINGHOUSE ELECTRIC CORPORATION, EMPLOYER *and*
INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, A. F. L.,
PETITIONER

Case No. 6-RC-95.—Decided July 14, 1948

DECISION

AND

ORDER

AND

DIRECTION OF ELECTION

On May 11, 1948, pursuant to a Stipulation for Certification upon Consent Election, an election by secret ballot was conducted among the employees in the unit set forth in the Stipulation. A Tally of Ballots shows that of approximately 594 eligible voters 266 voted for, and an equal number against, the Petitioner. No other union appeared on the ballot.

On May 14, 1948, the Petitioner filed objections to the conduct of the election and to conduct affecting the results of the election, alleging various irregularities on the part of the Board agent supervising the conduct of the election and on the part of the United Electrical, Radio and Machine Workers, C. I. O.,¹ which, while it did not appear on the ballot, allegedly urged the employees not to vote for the Petitioner. On June 14, 1948, the Regional Director issued a Report on Objections, in which he found merit only in one of the Petitioner's grounds for objecting to the election; namely, that the Board agent had refused to issue a ballot to an eligible voter, Owen A. Whipple. The Regional Director found that Whipple's name was not on the eligibility list submitted by the Employer and checked by the Petitioner, that he was consequently refused a ballot when he presented himself to vote, and that the Employer later advised the Regional Director that Whipple's name had been inadvertently omitted from the eligibility list and that, in the Employer's opinion, he should have been allowed to vote.

¹ The U. E. has not complied with the filing or registration requirements of Section 9 of the National Labor Relations Act, as amended.

78 N. L. R. B., No. 38.

The Regional Director found further in this regard that Whipple had been hired by the Employer on March 8, 1948, before the eligibility date, and that he had been told to report to work the next morning. However, the following morning, before he could report to work, the plant ceased operation because of a strike which was still in effect on May 11, 1948, the date of the election.

Concluding, in view of these circumstances, that the Petitioner's objection relating to Whipple's failure to receive a ballot raised a substantial and material issue, the Regional Director recommended that if the Board finds that Whipple was eligible to vote in the election, the Board sustain the objections, set aside the results of the election held on May 11, and direct a new election.

No exceptions having been taken thereto by the parties,² we adopt the foregoing findings of the Regional Director that Whipple was hired by the Employer on March 8, but was prevented by the strike from actually beginning work. Under these circumstances, we find that Whipple was eligible to vote and that a ballot should have been issued to him. Because Whipple's vote, if cast, would have affected the results of the election, we shall sustain the objections to the election to the extent that they are based on the failure to issue a ballot to him. Accordingly, we shall set the election aside and direct a new election.³

ORDER

IT IS HEREBY ORDERED that the election of May 11, 1948, conducted among employees of Westinghouse Electric Corporation, Beaver, Pennsylvania, be, and it hereby is, set aside.

DIRECTION OF ELECTION

It is hereby directed that within 30 days from the date hereof a new election be held among the employees, in the unit stipulated by the parties, who were eligible to vote in the election herein set aside.

² The Board has received exceptions to the Regional Director's recommendation purporting to be signed by individual employees of the Employer. Section 203.61 of the Board's Rules and Regulations permits exceptions to a Report on Objections to be filed by the "parties" to the representation proceeding. We do not consider the individual employees to be parties to the instant proceeding within the definition of "party" in Section 203.8 of the Rules and Regulations, and, therefore, we shall not entertain the aforesaid exceptions. See *Matter of Norcal Packing Company*, 76 N. L. R. B. 254, Case No. 20-R-2221, where the Board held that a union whose name did not appear on the ballot in an election had no standing to file objections to the election.

The Board has also received a telegram, in the nature of exceptions, from United Electrical, Radio, and Machine Workers, C. I. O. (see footnote 1, above). For the reasons just stated, we shall not entertain these exceptions.

³ In view of our decision herein, we need not pass on the contention of the Petitioner and Employer that, the results of the election of May 11 being inconclusive, the Board should order a run-off election.