

IN THE MATTER OF SOLVAY PROCESS DIVISION OF ALLIED CHEMICAL & DYE CORPORATION, EMPLOYER *and* DAYTON BROW, PETITIONER *and* UNITED GAS, COKE & CHEMICAL WORKERS OF AMERICA, CIO, ON BEHALF OF ITS LOCAL 160, UNION

Case No. 7-RD-5.—Decided July 19, 1948

Butzel, Eaman, Long, Gust and Bills, by *Mr. Gordon Scupholm*, of Detroit, Mich., for the Employer.

Mr. George C. Bowles, of Detroit, Mich., for the Petitioner.

Mr. Walter Nelson, of Detroit, Mich., for the Union.

DECISION

AND

DIRECTION OF ELECTION

Upon a petition for decertification duly filed, hearing in this case was held at Detroit, Michigan, on March 23, 1948, before Harry N. Casselman, hearing officer. Before the hearing, the Union moved to dismiss the petition, alleging that the individual who filed it was in fact acting for District 50 of United Mine Workers of America, herein called the Mine Workers, a labor organization which has not complied with the filing requirements of Section 9 (f), (g), and (h) of the Act. The Petitioner moved to dismiss the Union's motion. Both motions were referred by the Regional Director to the hearing officer, who in turn referred them to the Board. For the reasons hereinafter stated, both motions are hereby denied. 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 National Labor Relations Board¹ makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE EMPLOYER

The Employer is engaged in commerce within the meaning of the Act.

¹ Pursuant to the provisions of Section 3 (b) of the National Labor Relations Act, the National Labor Relations Board has delegated its powers in connection with this case to a three-man panel consisting of the undersigned Board Members [Chairman Herzog and Members Murdock and Gray].

II. THE PARTIES INVOLVED

The Petitioner is an individual representing employees of the Employer, who asserts that the Union's Local 160 is no longer the representative of the Employer's employees as defined by Section 9 (a) of the Act, as amended.

The Union, a labor organization affiliated with the Congress of Industrial Organizations, appeared on behalf of its Local 160,² which was certified by the Board's Regional Director on February 7, 1944, as the exclusive bargaining representative of employees of the Employer.

III. THE QUESTION CONCERNING REPRESENTATION

Petitioner seeks decertification of Local 160 pursuant to Section 9 (c) of the Act.

On February 7, 1944, following a consent election,³ the Union's Local 160 was certified as the bargaining representative of all hourly paid production and maintenance employees at the Employer's Detroit plant. Thereafter, the Employer and Local 160 entered into successive collective bargaining contracts, the last of which was to remain in effect until March 11, 1948, and from year to year thereafter, in the absence of notice to terminate, given 60 days before any anniversary date of the contract. None of the parties has asserted the contract as a bar to this proceeding, nor could they, for the Union stayed the operation of the automatic renewal clause by requesting the major modifications in the contract on January 8, 1948. The petition herein was filed 6 days later.

As noted above, the Union moved to dismiss the decertification petition, asserting that the Petitioner was in fact acting on behalf of District 50 of the Mine Workers, which has not complied with the filing requirements of the Act. The Petitioner denies this, but asserts that even if it were true, under Section 9 (c) (1) of the Act, the Board would nevertheless be required to direct an election herein. The Petitioner further objects to the Union's motion, on the ground that Local 160, the certified bargaining agent for whom the Union appeared, has not complied with Section 9 (f) of the Act.

Without passing on the merits of the Petitioner's contentions, we deny the Union's motion. The individual Petitioner's installation as a provisional officer in a newly chartered local of the Mine Workers 15

² By a letter dated January 5, 1948, and delivered the following day, the Union notified the officers and members of the executive board of its Local 160 that they were removed from office, and that the affairs of the local were being placed in the hands of an Administrator. The Union's Administrator was still in charge of the local's affairs at the time of the hearing.

³ Case No. 7-R-1500.

days after the filing of the petition is not, in our opinion, a sufficient basis for finding that the Petitioner was acting as an agent of the Mine Workers at the time that he filed his petition.⁴

We find that a question affecting commerce exists concerning the representation of employees of the Employer, within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act.

IV. THE APPROPRIATE UNIT

We find, substantially in accord with the agreement of the parties, that all production and maintenance employees of the Detroit plant of the Solvay Process Division of Allied Chemical & Dye Corporation, excluding plant protection men and guards, professional employees, confidential employees, office employees, restaurant employees, laboratory employees, foremen, and all other supervisors as defined in the Act, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

DIRECTION OF ELECTION⁵

As a part of the investigation to ascertain representatives for the purpose of collective bargaining with Solvay Process Division of Allied Chemical & Dye Corporation, Detroit, Michigan, 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, under the direction and supervision of the Regional Director for the Seventh Region, and subject to Sections 203.61 and 203.62 of National Labor Relations Board Rules and Regulations—Series 5, among the employees in the unit found appropriate in Section IV, above, who were employed during the pay-roll period immediately preceding the date of this Direction, including employees who did not work during said pay-roll period because they were ill or on vacation, or temporarily laid off, 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 election, and also excluding employees on strike who are not entitled to reinstatement, to determine whether or not they desire to be represented by Local 160, United Gas, Coke & Chemical Workers of America, CIO, for the purposes of collective bargaining.

⁴ Cf. *Matter of Campbell Soup Company*, 76 N. L. R. B. 950.

⁵ As Local 160 is not in compliance with Section 9 (f) and (h) of the amended Act, the Board will certify only the arithmetical results of the election if Local 160 wins, unless it has by then complied. *Matter of Harris Foundry and Machine Co.*, 76 N. L. R. B. 118.