

In the Matter of AMERICAN SMELTING & REFINING COMPANY,
EMPLOYER *and* INTERNATIONAL ASSOCIATION OF MACHINISTS,
PETITIONER

Case No. 21-RC-220.—Decided October 12, 1948

DECISION

AND

ORDER

Upon a petition duly filed, a hearing was held before a hearing officer of the National Labor Relations Board. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Pursuant to the provisions of Section 3 (b) of the National Labor Relations Act, the Board has delegated its powers in connection with this case to a three-man panel consisting of the undersigned Board Members.*

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the National Labor Relations Act.

2. International Union of Mine, Mill and Smelter Workers, C. I. O. and its Local Union No. 886, hereinafter jointly called the Intervenor, and the Petitioner are labor organizations which claim to represent employees of the Employer.

3. No 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, for the following reasons:

The Intervenor, as the result of a prehearing election, was certified by the Board on July 29, 1947,¹ as the exclusive bargaining representative of the Employer's production and maintenance employees, including the employees herein involved. The Employer and the Intervenor thereafter entered into a collective bargaining agreement effective until June 20, 1948. Prior to the expiration of this agreement, the

*Houston, Murdock, and Gray.

¹ Case No. 21-R-3941.

79 N. L. R. B., No. 179.

Employer and the Intervenor commenced negotiations for the purpose of entering into a new agreement, which was subsequently executed on or about July 26, 1948.² On April 1, 1948, the petition in the instant case was filed. The Intervenor contends that the petition is not timely because it was filed within the year following certification.

We have held³ that a collective bargaining agreement for a reasonable period, entered into within the year following certification of the contracting union, is a bar during its term to a petition filed by a rival union, notwithstanding the fact that the parties had been put on notice of a rival claim, or the fact that the contract claimed to be a bar is a second contract executed within the certification year. Inasmuch as the existing contract was negotiated and executed within 1 year of certification of the Intervenor, we find that it is a bar to a present determination of representatives. Accordingly, we shall dismiss the petition herein.

ORDER

Upon the basis of the foregoing findings of fact and the entire record in the case, the National Labor Relations Board hereby orders that the petition for investigation and certification of representatives of the employees of American Smelting & Refining Company, Hayden, Arizona, filed by International Association of Machinists, be, and it hereby is, dismissed.

²The record herein does not contain the execution date of the new agreement. In the record of a case involving the same Employer, however, a decision in which has issued on this same date, it appears that the contract in question was executed on or about July 26, 1948.

³*Matter of Texas Paper Box Manufacturing Company*, 75 N. L. R. B. 799; *Matter of DeVry Corporation*, 73 N. L. R. B. 1145; *Matter of Quaker Maid Company, Incorporated*, 71 N. L. R. B. 915.