

In the Matter of WILSON ATHLETIC GOODS MANUFACTURING Co., INC.,
EMPLOYER and INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUF-
FEURS, WAREHOUSEMEN AND HELPERS OF AMERICA, AFL, LOCAL
UNION No. 406, PETITIONER

Case No. 7-RC-138.—Decided October 15, 1948

DECISION

AND

DIRECTION OF ELECTION

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. The labor organization named below in the Direction of Election claims to represent employees of the Employer.
3. The question concerning representation:

The Employer asserts that a contract which it has with Independent Athletic Goods Employees' Union, herein called the Independent, constitutes a bar to a current determination of representatives.

The record shows that on December 19, 1947, a contract was executed between the Employer and the Independent, to remain in effect from year to year "subject to being reopened by either party on written notice mailed to the other at least sixty (60) days prior to any anniversary date."

On April 12, 1948, at a meeting of the Independent, a resolution was passed by the members by a vote of 64 to 0 to dissolve that Union. It had approximately 75 members at that time. Most of the members,

*Houston, Reynolds, and Gray.

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either before or since this meeting, joined the Petitioner, and the secretary-treasurer of the Petitioner was directed by the officers of the Independent to notify the Employer of the action taken. At this meeting, it was also decided to use up the balance of the Union's funds remaining in its treasury for a banquet or party. Since April 12, 1948, no meetings of the Independent have been held, no dues collected, and none of the officers or stewards of that Union have functioned as such. On May 12, 1948, the Employer called some of the officers of the Independent to a grievance meeting but only grievances which had arisen before the meeting at which the dissolution resolution was unanimously adopted were discussed, and the officers stated that they were not acting as officials or as a grievance committee of the Independent in attending the meeting.

The Independent did not intervene in this proceeding and although its officers were present at the hearing, they testified that the Independent had been dissolved by a vote of the membership on April 12, 1948, and that since that date they had represented none of the employees.

From the foregoing it appears that the Independent has ceased to function as a representative of the employees of the Employer and is nonexistent. Accordingly, the contract is rendered ineffective as a bar to this proceeding.¹

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

4. The appropriate unit: The parties stipulated that the unit appropriate for purposes of collective bargaining consists of all production and maintenance employees, excluding office and clerical employees, guards, executives, foremen and all other supervisors.

The only remaining question involves the supervisory status of Laskus, the clerk in charge of raw materials. As to him, the record shows that he is in charge of two to three employees and that he has authority to hire, discharge, effect changes in working conditions, or effectively to recommend such action with respect to such employees. We find that he is a supervisor and shall therefore exclude him from the unit.

We find that all of the Employer's production and maintenance employees at its Grand Rapids, Michigan, plant, excluding office and clerical employees, guards, executives, foremen, and all other supervisors, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

¹ *Matter of Air Utilities, Inc.*, 70 N. L. R. B. 887.

DIRECTION OF ELECTION

As part of the investigation to ascertain representatives for the purposes of collective bargaining with the Employer, an election by secret ballot shall be conducted as early as possible, but not later than 30 days from the date of this Direction, under the direction and supervision of the Regional Director for the Region in which this case was heard, and subject to Sections 203.61 and 203.62 of the National Labor Relations Board Rules and Regulations—Series 5, as amended, among the employees in the unit found appropriate in paragraph numbered 4, above, who were employed during the pay-roll period immediately preceding the date of this Direction of Election, 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, for purposes of collective bargaining, by International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL, Local Union No. 406.