

In the Matter of BOND STORES, INCORPORATED, EMPLOYER *and* JOSEPH E. BECKERJECK, PETITIONER *and* RETAIL, WHOLESALE AND DEPARTMENT STORE UNION, CHICAGO JOINT BOARD, CIO, UNION

*Case No. 13-RD-14.—Decided March 4, 1949*

DECISION  
AND  
DIRECTION OF ELECTION

Upon a petition for decertification 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 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 Petitioner asserts that the Union is no longer the bargaining representative of the employees of the Employer as defined in Section 9 (a) of the Act.

3. 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 amended Act.<sup>1</sup>

\*Houston, Reynolds, and Murdock.

<sup>1</sup>The Petitioner contends that the collective bargaining contract between Employer and Union is no bar to this proceeding inasmuch as it was not actually signed until after June 15, 1948, when the instant petition was filed. It seems clear from the record that the contract was executed on or about June 1, 1948, the effective date of the contract. However, the record discloses that the contract provided for a union shop and for maintenance of membership in the Union as a condition of employment. It was orally agreed that this clause was not to be a part of the contract until after a union-shop election was held. The Union has not been certified by the Board, under Section 9 (e) (1) of the Act, as being authorized to execute such a union-security provision. In *Matter of O. Hager & Sons Hunge Manufacturing Company*, 80 N. L. R. B. 163, we said that even if no action has been taken pursuant to such a provision "The mere existence of such a provision acts as a restraint upon those desiring to refrain from union activities within the meaning of Section 7 of the Act. . . ." Under these circumstances, and without regard to any other considerations, we find that the contract is not a bar to the present determination of representatives. See *Matter of General Electric Company*, 80 N. L. R. B. 169.

4. The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act:

All employees, except managers, assistant managers, department heads (except in one-man departments), credit managers, assistant credit managers, head bookkeepers, head cashiers, display managers, private secretaries, tailor shop employees covered by contracts with other unions, and all other supervisors as defined in the Act.

#### DIRECTION OF ELECTION <sup>2</sup>

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 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 Retail, Wholesale and Department Store Union, Chicago Joint Board, CIO.

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<sup>2</sup> The Union has not complied with the filing requirement of Section 9 (f), (g), and (h) of the Act. Accordingly, if the Union wins the election, and it has not then complied, the Board will certify only the arithmetical results. *Matter of Burry Biscuit Corporation*, 76 N. L. R. B. 640.