

In the Matter of SEALRIGHT PACIFIC, LTD., PETITIONER AND EMPLOYER
and PRINTING SPECIALTIES AND PAPER CONVERTERS UNION, LOCAL
388, A. F. L., UNION

Case No. 21-RM-39

SUPPLEMENTAL DECISION

AND

ORDER

March 30, 1949

On September 2, 1948, the Board issued a Decision and Direction of Election in the above-entitled proceeding.¹ Thereafter, and pursuant thereto, the Regional Director for the Twenty-first Region, on September 30, 1948, conducted an election by secret ballot among certain employees of the Employer. Upon the conclusion of the election, a Tally of Ballots was furnished the parties in accordance with the Rules and Regulations of the Board.

The Tally shows that of approximately 110 eligible voters, 100 cast ballots, of which 26 were for the Union, 63 were against the Union, and 11 were challenged.

Thereafter, on October 5, 1948, the Union filed a "Statement of Objections to Representation Election," contending, *inter alia*, (1) that the Employer, just prior to the election on September 30, 1948, restrained and coerced its employees by letters and oral statements calculated to convey threats of reprisal and promises of benefits; and (2) that certain supervisory employees of the Employer participated in the election.²

¹ On September 21, 1948, the Board issued an order denying the Union's "Motion for Reconsideration of Decision and Direction of Election and Further Request for Oral Argument," filed September 9, 1948.

² The Union further urged that in view of the temporary injunction issued against the Union in *LeBaron v. Printing Specialties and Paper Converters Local #388*, 75 Fed. Supp. 678, and the issue involved in Case No. 21-CC-13, now pending before the Board, the election could not reflect the free choice of the employees. In the circumstances of this case include the fact that the Employer waived its charge prior to the election, we find no merit to this contention.

The Union contended further that an order of the Board issued on September 29, 1948, denying its request for postponement of the election is invalid under Section 6 (d) of the Administrative Procedure Act. We find no merit in this contention inasmuch as our Order denying the motion is "self-explanatory."

Thereafter, on November 4, 1948, the Regional Director, having conducted an investigation, issued his Report on Objections. To his Report, the Regional Director attached as Exhibit 1, a form letter which prior to the election was sent by the Employer to the home of each employee; as Exhibit 2, the text of a speech delivered by the Employer's vice president to employees on September 29, 1948; and as Exhibits 3, 4, and 5, posters which, for some days prior to the election were placed on bulletin boards by representatives of the Employer. The Regional Director found no evidence that the Employer made any statements to its employees concerning the election other than those contained in the above-described exhibits. The Regional Director found that the statements contained in these documents were within the area of free speech as defined in Section 8 (c) of the Act.

In his Report, the Regional Director found that the 11 persons listed by the Union as supervisors, who participated in the election, are employed by the Employer as inspectors and leadmen. Ten of these listed employees cast challenged ballots, and 1 voted without challenge. In addition, 3 other employees in these categories voted without challenge. The Regional Director found that, in the past, the rates of pay of the Employer's inspectors and leadmen have been governed by contracts between the Employer and the Union, and that instructors and leadmen have been considered to be part of the bargaining unit. The Regional Director further found that these employees do not appear to be supervisors within the meaning of the Act, and that there was no indication that their presence at the polling place constituted interference with the election or coercion upon the voters.

The Regional Director found that the objections raise no substantial or material issues with respect to the conduct of the election and recommends that the Board overrule the objections.

On November 30, 1948, the Union filed a motion for reconsideration of the Regional Director's Report on Objections; and Exceptions to Report on Objections contending that the investigation was incomplete and alleging new matter as interference which occurred after the conduct of the election.

We find that the exceptions filed by the Union to the Regional Director's Report raise no additional material or substantial issues, and, accordingly, they are hereby overruled. We adopt the recommendations in the Regional Director's Report.

Inasmuch as the tally shows that the Union has failed to secure a majority of the votes cast, and that the challenged votes cannot affect the outcome of the election, we find that no question affecting com-

merce exists concerning the representation of the employees of the Employer, within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act. Accordingly, we shall dismiss the petition.

ORDER

IT IS HEREBY ORDERED that the petition for investigation and certification of representatives filed herein by the Employer be, and it hereby is, dismissed.

CHAIRMAN HERZOG and MEMBER MURDOCK took no part in the consideration of the above Supplemental Decision and Order.