

In the Matter of SAFETY MOTOR TRANSIT CORPORATION, ROANOKE RAILWAY AND ELECTRIC COMPANY, PETITIONER AND EMPLOYER and INTERNATIONAL ASSOCIATION OF MACHINISTS, LODGE 1368

Case No. 5-RM-6

SUPPLEMENTAL DECISION

AND

ORDER

May 6, 1949

On July 30, 1948, the Board¹ issued a Decision and Direction of Election in the above-entitled proceeding.² Thereafter, and pursuant thereto, the Regional Director for the Fifth Region, on August 19, 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 61 eligible voters, 60 cast ballots, of which 26 were for the Union and 34 against the Union.

Thereafter, by letter dated August 26, 1948, the Union filed objections to the conduct of the election, alleging: (1) electioneering by representatives of the Employer near the polls; (2) the presence of representatives of the Employer around or near the polling places while the election was taking place; and (3) the use of cars of the Employer to bring voters to the polls.

Thereafter, on March 23, 1949, the Regional Director, having conducted an investigation, issued his Report on Objections. In his report, the Regional Director found no merit in the objections listed in the Union's letter of August 26, 1948, and recommended that they be overruled. No exceptions have been filed by either of the parties to the Regional Director's findings and recommendations with respect to these objections. Accordingly, we adopt the findings and recommendations of the Regional Director and overrule these objections.

The Regional Director, however, includes in his report certain findings and a recommendation with respect to a fourth objection,

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

² 78 N. L. R. B. 831.

raised by the Union in January 1949, long after its letter of August 26, 1948, described above, and after the period for filing objections had closed. The Regional Director found that the fourth objection raised substantial and material issues with respect to the conduct of the election and recommended that the election be set aside.

Thereafter, on March 28, 1949, the Employer filed exceptions to the Regional Director's report, pointing out, *inter alia*, that the fourth objection of the Union was not timely presented. We agree, and find, therefore, that the fourth objection of the Union was not properly within the scope of the Regional Director's investigation and report.³ We make no findings on the merits of this objection. The Employer's exceptions to the fourth objection are, for procedural reasons, hereby sustained.

Inasmuch as the tally shows that the Union has failed to secure a majority of the votes cast, we find that 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. 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.

³ See, e. g., *Consolidated Vultee Aircraft Corporation*, 72 N. L. R. B. 497.