

In the Matter of AUBURN RUBBER CORPORATION, EMPLOYER and MARGARET BILLINGS, PETITIONER and UNITED RUBBER, CORK, LINOLEUM AND PLASTIC WORKERS OF AMERICA, LOCAL UNION No. 362, CIO, UNION

Case No. 6-RD-17.—Decided August 4, 1949

DECISION
AND
DIRECTION OF ELECTION

Upon a petition for decertification duly filed, a hearing was held before Emil E. Narick, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.¹

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

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, an employee of the Employer, asserts that the Union is no longer the representative of the Employer's employees, as defined in Section 9 (a) of the amended Act.

The Union, a labor organization affiliated with the Congress of Industrial Organizations, is currently recognized by the Employer as the bargaining representative of its employees.

3. A question affecting commerce exists concerning the representation of the employees of the Employer, within the meaning of Section 2 (6) and (7) of the Act.

¹ At the hearing, the Union moved to dismiss the petition on the grounds: (1) that the signatures obtained by the Petitioner in support of the decertification petition were invalid, and (2) that the Petitioner is "fronting" for a non-complying union. The hearing officer referred this motion to the Board. The question of the showing of interest by the petition in a decertification proceeding, as in a certification proceeding, is for the Board to determine administratively and may not be attacked collaterally at the hearing. *Matter of Hiden Warehouse and Forwarding Company*, 80 N. L. R. B. 1587. As to the question of "fronting," the desires of the employees can best be ascertained by the election hereinafter directed. *Matter of Ellis-Klatscher Co.*, 79 N. L. R. B. 183; *Matter of Whittin Machine Works*, 76 N. L. R. B. 998. This motion is hereby denied.

4. The Employer, the Petitioner, and the Union agree, and we find, that the following is a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act:

All production, maintenance, and service employees of the Employer's Connellsville, Pennsylvania, plant, excluding office, clerical and professional employees, guards, and supervisors as defined in the Act.

DIRECTION OF ELECTION

As part of the investigation to ascertain representatives for the purposes of collective bargaining with Auburn Rubber Corporation, 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 Sixth Region, and subject to Sections 203.61 and 203.62 of National Labor Relations Board Rules and Regulations, 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, 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 by United Rubber, Cork, Linoleum and Plastic Workers of America, Local Union No. 362, CIO.