In the Matter of WEBER SHOWCASE AND FIXTURE COMPANY, EMPLOYER *and* HARRY KLEIN, AN INDIVIDUAL, PETITIONER and LOCAL LODGE 311, INTERNATIONAL ASSOCIATION OF MACHINISTS, UNION

In the Matter of WEBER SHOWCASE AND FIXTURE COMPANY PLANT #5 (AIRCRAFT DIVISION), EMPLOYER *and* DISTRICT #94 FOR ITS LOCAL LODGE 311 OF THE INTERNATIONAL ASSOCIATION OF MACHINISTS, PETITIONER

Cases Nos. 21–RD–83 and 21 RC–823, respectively.—Decided September 9, 1949

DECISION
ORDER
AND
DIRECTION OF ELECTION

Upon petitions duly filed, a hearing was held in the above-consolidated cases before Ben Grodsky, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Upon the entire record in these cases, the Board finds:

1. The Employer is engaged in commerce within the meaning of the National Labor Relations Act.

2. The Petitioner in Case No. 21–RD–83, an employee of the Employer, asserts that Local Lodge 311, International Association of Machinists, which was certified as the bargaining representative of the employees in the Employer's plant located at 5700 S. Avalon Boulevard, Los Angeles, California, is no longer the representative of these employees, as defined in section 9 (a) of the amended Act.

District #94 for its Local Lodge 311 of the International Association of Machinists, the Petitioner in Case No. 21–RC–823, is a labor organization claiming to represent certain employees of the Employer.

3. A question affecting commerce exists concerning the representation of certain employees of the Employer at its plant #1, within

the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act.[1]

4. CASE NO. 21-RC-823

The Petitioner in this case seeks to represent a unit of all machinists, tool and fixture builders, their apprentices and helpers, in departments 502 and 538 at the Employer's plant #5 located at Huntington Park, California.

At the hearing on June 25, 1949, the Employer testified, without contradiction, that plant #5 will be completely shut down and abandoned within 60 to 90 days. Under these circumstances, we are of the opinion that no useful purpose will be served by proceeding with a determination of representatives at the present time. Accordingly, we shall dismiss this petition without prejudice.[2]

CASE NO. 21-RD-83

The following employees of the Employer at its plant #1, 5700 S. Avalon Boulevard, Los Angeles, California, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act:

All tool and die makers, precision jig builders, machinists, maintenance mechanics, apprentices and helpers, and all welders who work with these classifications, welder journeymen, bench machinists classes A and B, jig and tool builders classes A, B, and C, general machinists, and foremen C, excluding all employees in the maintenance department and all supervisors as defined in the Act.

ORDER

It is hereby ordered that the petition in Case No. 21-RC-823 be, and it hereby is, dismissed without prejudice.

DIRECTION OF ELECTION

As part of the investigation to ascertain representatives for the purposes of collective bargaining with the Employer, an election by

[1] The IAM contends that the decertification petition is untimely because it was filed during the contract term and during the certification year. The contract between the Employer and the Union was signed on August 5, 1948, for a term which expired on July 1, 1949. The certification was issued on March 11, 1948, and the petition was filed on May 25, 1949. It is apparent that the petition for decertification was filed *after* the first certification year had expired, although about a month before the expiration date of the contract. Under these circumstances, we find the Union's contention to be without merit. Cf. *Matter of Texas Paper Box Manufacturing Company*, 75 N. L. R. B. 799.

[2] *Matter of International Harvester Company, Chattanooga Works*, 73 N. L. R. B. 436; *Matter of Armour and Co.*, 62 N. L. R. B. 1194.

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, 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 Local Lodge 311, International Association of Machinists.

MEMBERS HOUSTON and MURDOCK took no part in the consideration of the above Decision, Order, and Direction of Election.