

In the Matter of WIRE PRODUCTS, INC., EMPLOYER and AMALGAMATED LOCAL 257, INTERNATIONAL UNION OF ELECTRICAL, RADIO AND MACHINE WORKERS, CIO, PETITIONER

*Case No. 1-RC-1318.—Decided February 20, 1950*

DECISION  
AND  
DIRECTION OF ELECTION

Upon a petition duly filed, a hearing was held before Thomas H. Ramsey, hearing officer. 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 National Labor Relations Act, the Board has delegated its powers in connection with this case to a three-member panel [Chairman Herzog and Members Houston and Reynolds].

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 labor organizations involved claim to represent certain employees of the Employer.

3. United Electrical, Radio and Machine Workers of America, herein called the Intervenor, contends that a collective bargaining agreement executed by the Employer and the Intervenor on August 8, 1949, prior to the filing of the petition herein, is a bar to this proceeding.<sup>1</sup> This contract, however, contains the following union-security provisions:

*Section 2.* All present employees covered as above shall become and remain members in good standing of the United Electrical, Radio & Machine Workers of America, C. I. O. Local 257 as a condition of employment.

*Section 3.* All new employees hired by the Employer shall become members of the said Union within fifteen (15) days of their employment.

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<sup>1</sup> The petition was filed on December 5, 1949.

No election has ever been conducted by the Board, under Section 9 (e) of the Act, authorizing the Intervenor to execute a union-security agreement with the Employer. Moreover, the above provisions are invalid under the statute even without regard to the absence of an election. Accordingly we find, apart from other considerations, that the contract is not a bar to this proceeding.<sup>2</sup>

We find that a question affecting commerce exists concerning the representation of employees of the Employer within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.<sup>3</sup>

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 production and maintenance employees at the Employer's Lynn, Massachusetts, plant, excluding executives, office and clerical employees, guards, professional employees, and supervisors.

#### DIRECTION OF ELECTION <sup>4</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, among the employees in the unit found appropriate in paragraph numbered 4, above, who were employed during the payroll period immediately preceding the date of this Direction of Election, including employees who did not work during said payroll 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

<sup>2</sup> *Penn Paper & Stock Company*, 88 NLRB 17; *The Hofmann Packing Co., Inc.*, 87 NLRB 601; *Pacific Gas and Electric Company*, 87 NLRB 257. It is immaterial that the parties have not given effect to this provision of the contract. *Hickey Cab Company*, 88 NLRB 327; *Empire Zinc Division, The New Jersey Zinc Company*, 86 NLRB 685; *Penick & Ford, Ltd., Inc.*, 86 NLRB 659; *Reading Hardware Corporation*, 85 NLRB 610.

<sup>3</sup> In view of our finding that the contract is not a bar to this proceeding because of the invalid union-security provision, we find it unnecessary to resolve the issue as to whether or not there is a substantial doubt concerning the identity of the labor organization which represents the employees, as alleged by the Petitioner.

<sup>4</sup> The record is not clear as to whether Local 257, United Electrical, Radio and Machine Workers of America is still in existence. If this local is in existence, the Intervenor's participation in the election directed herein is conditioned upon the full compliance with Section 9 (f), (g), and (h) of the Act by Local 257. See *Lane Wells Company*, 79 NLRB 252.

Either participant in the election herein may, upon its prompt request to, and approval thereof by, the Regional Director, have its name removed from the ballot.

on strike who are not entitled to reinstatement, to determine whether they desire to be represented, for purposes of collective bargaining, by Amalgamated Local 257, International Union of Electrical, Radio and Machine Workers, CIO,<sup>5</sup> or by United Electrical, Radio and Machine Workers of America, or by neither.

<sup>5</sup>The motion of the Intervenor not to permit the Petitioner to use Local 257 as part of its name on the ballot in the election is denied. *General Motors Corporation, Frigidaire Division*, 88 NLRB 450.