

In the Matter of REFRIGERATION CONTRACTORS ASSOCIATION, INC., PETITIONER *and* REFRIGERATION FITTERS PROTECTIVE ASSOCIATION, INC., ALSO KNOWN AS LOCAL 508, UNION *and* REFRIGERATION FITTERS DIVISION OF LOCAL 986, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA, AFL, UNION *and* LOCAL 250 OF THE UNITED ASSOCIATION OF JOURNEYMEN AND APPRENTICES OF THE PLUMBING AND PIPEFITTING INDUSTRY OF THE UNITED STATES AND CANADA, AFL, UNION

Case No. 21-RM-120.—Decided February 28, 1950

DECISION
AND
DIRECTION OF ELECTION

Upon a petition duly filed, a hearing was held before Ben Grodsky, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed. During the course of the hearing, a motion to dismiss the petition was made by counsel for Refrigeration Fitters Protective Association, also known as Local 508. The hearing officer referred this motion to the Board. For reasons hereinafter stated under paragraph 3, the motion is denied.

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 [Members Houston, Reynolds, and Murdock.]

Upon the entire record in this case, the Board finds:

1. The Employer-members of the petitioning Association are engaged in commerce within the meaning of the National Labor Relations Act.¹

¹ Refrigeration Contractors Association, Inc., is a California corporation admitting to membership firms engaged in the sale, construction, installation, and service of air conditioning and refrigeration in Southern California over which the Board has previously asserted jurisdiction. *Air Conditioning Company of Southern California, et al.*, 79 NLRB 1396. The petition in this case was filed on behalf of members of the Union Employers' Section of the Association. The 28 Employer-members are: Air Conditioning Company of Southern California, Associated Refrigerating Engineers, Baker Refrigeration Corporation, Black & Patteson, Commercial Refrigeration Company, Commerford's Refrigeration Company, Cook Engineering Company, George M. Cox Company, Hal Crumley, Dell Smith Co., Inc., Elster's, Gay Engineering Corporation, Heatt Engineering Company, Independent Refrigeration Company, Jennings Refrigeration Company, W. S. Kilpatrick & Company,

2. Refrigeration Fitters Protective Association, also known as Local 508, Independent, and Local 250 of the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, AFL, hereinafter referred to as Local 508 and Local 250 respectively, claim to represent employees of the Employers.²

3. Local 508 and Local 250 have made repeated demands for recognition to the Employer-members of the Association since October 1947. On October 15, 1948, in Case No. 21-RC-38, the Board, upon a petition of Local 508, issued a Decision and Order finding that a multiple-employer unit of 50 employers, including Employer-members of the Refrigeration Contractors Association, Inc., and nonmember employers, was inappropriate for purposes of collective bargaining.³ On February 23, 1949, the Board issued a Supplemental Decision, Direction of Elections and Order, in that case, finding, in part, that refrigeration fitters and apprentices of Employer-members of the Refrigeration Contractor's Association constituted an appropriate unit.⁴ Thereafter, on June 7, 1949, the Board issued an Order dismissing the petition in Case No. 21-RC-38, finding that unfair labor practice charges had been filed during the pendency of the proceeding by one of the parties affecting the employees and parties concerned and that the charges had not been waived as basis for objections to the conduct of the directed elections. On July 7, 1949, the instant petition was filed by the Refrigeration Contractors Association, Inc. Local 508 contends that the petition in this case should be dismissed on the ground that the Board's action in dismissing the petition in Case No. 21-RC-38 rendered this matter *res adjudicata*. We find no merit in this contention. The dismissal of the petition in Case No. 21-RC-38 was based, not upon the merits of the case therein, but was in conformance to the Board's administrative practice in regard to the waiver of charges of unfair labor practices filed during the pendency of a representation proceeding.⁵

Kohlenberger Engineering Corporation, Ralph E. Manns Company, Neilson Equipment Company, H. H. Newton Company, Pacific Refrigeration Company, Parson Refrigeration Company, Perfecold Refrigeration Company, Hugh Robinson & Sons, John Rogers & Son, Temperature Engineering Company, Western Air & Refrigeration, Inc., and York Corporation.

[By Order dated April 7, 1950, the petition, insofar as it pertains to Kohlenberger Engineering Corporation, is dismissed.]

² Although Refrigeration Fitters Division of Local 986, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL, was served with notice of the hearing in this case, it did not appear.

³ *Air Conditioning Company of Southern California, et al.*, 79 NLRB 1396.

⁴ 81 NLRB 639.

⁵ Inasmuch as a settlement agreement has been signed and approved in cases involving the charges noted above, and the period for posting compliance notices under such agreement has since expired, no bar remains to prompt resolution of the question concerning representation existing herein.

We find that a question affecting commerce exists concerning the representation of employees of the Employer-members of the Association within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

4. We find that all journeymen and apprentice refrigeration and air conditioning installation and servicemen regularly employed by the Los Angeles County and Orange County, California, establishments of Employer-members of Refrigeration Contractors Association, Inc., listed in footnote 1, excluding office, clerical, engineering, warehouse, and manufacturing employees, supervisors within the meaning of the amended Act, and all other employees, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

DIRECTION OF ELECTION

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 106 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 election, and also excluding employees on strike who are not entitled to reinstatement, to determine whether they desire to be represented, for purposes of collective bargaining, by Refrigeration Fitters Protective Association, Inc., also known as Local 508, or Local 250 of the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, AFL, or by neither.