

In the Matter of THE MAY DEPARTMENT STORES COMPANY d/B/A
FAMOUS-BARR COMPANY and ELEVATOR OPERATORS AND STARTERS,
LOCAL 50-E, A. F. L.

Case No. 14-R-779

THIRD SUPPLEMENTAL DECISION

AND

THIRD DIRECTION OF ELECTION

July 11, 1945

On January 1, 1944, the National Labor Relations Board issued a Decision and Direction of Elections in the above-entitled proceeding;¹ on March 31, 1945, a Supplemental Decision and Order setting aside Elections;² on April 24, 1945, a Second Direction of Elections; and on June 13, 1945, a Second Supplemental Decision, Direction and Order.³ Pursuant to the Direction, and in accordance with the Rules and Regulations of the Board, the Regional Director opened and counted the challenged ballots cast in the second election among elevator operators of the Company held on May 21 and 22, 1945, and served upon the parties a revised Tally of Ballots, showing the results of the election as follows:

| | |
|---|----|
| Approximate number of eligible voters | 63 |
| Valid votes counted | 55 |
| Votes cast for A. F. L. | 15 |
| Votes cast for C. I. O. | 15 |
| Votes cast against participating unions | 25 |
| Challenged ballots | 0 |
| Void ballots | 2 |

Anticipating that the counting of the challenged ballots would determine the choices to appear on the ballot in a run-off election, the Board further

¹ 54 N. L. R. B. 230 Case No. 14-R-779, the instant case, was consolidated with Case No. 14-R-794 involving other employees of *The May Department Stores Company, d/b/a Famous-Barr Company*, St. Louis, Missouri, herein called the Company.

² 61 N. L. R. B. 258

³ The Board severed Case No. 14-R-794 from Case No. 14-R-779, and dismissed the petition filed therein

directed the Regional Director to conduct a run-off election without delay. When the Tally of Ballots disclosed that the votes cast for "neither" exceeded the number of votes cast for either participating labor organization and that the labor organizations each received the same number of votes, the Regional Director was not empowered to proceed with a run-off election under the Rules and Regulations of the Board. Under these circumstances, the Regional Director issued an Election Report and Recommendations, setting forth the results of the election and recommending that the Board hold a new election among employees in the appropriate unit to determine whether they desire to be represented by either of the participating labor organizations or by neither. On June 26, 1945, the Company filed exceptions to the Regional Director's recommendation for a new election, on the ground that the employees concerned had had ample opportunity to express their desires in the matter of collective bargaining. On June 27, 1945, Elevator Operators and Starters, Local 50-E, A. F. L., filed exceptions to the Regional Director's report, contending that the Regional Director should have proceeded to have conducted a run-off election without reference and recommendations to the Board. We find no merit in these exceptions and they are hereby overruled. Since it clearly appears that a majority of the employees participating in the second election among elevator operators desire collective bargaining and that both the labor organizations desire a new election, we shall direct that a third election be held in order that the employees concerned may have an opportunity to bargain collectively if they so desire.⁴

Those eligible to vote in the new election which we shall now direct shall be all employees in the unit found to be appropriate for elevator operators in our Decision and Direction of Elections, issued on January 1, 1944, who were employed during the pay-roll period immediately preceding the date of the issuance of this Third Direction of Election, subject to the limitations and additions set forth therein.

THIRD DIRECTION OF ELECTION

By virtue of and pursuant to the power vested in the National Labor Relations Board by Section 9 (c) of the National Labor Relations Act, and pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 3, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with The May Department Stores Company, doing business as Famous-Barr Company, St. Louis, Missouri, an election by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from the date of this Third Direction of Election,

⁴ *Matter of Seattle Drum Company*, 61 N. L. R. B. 483.

under the direction and supervision of the Regional Director for the Fourteenth Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Section 10, of said Rules and Regulations, among all employees in the unit found appropriate for elevator operators of the Company in our Decision and Direction of Elections issued on January 1, 1944, including regular employees who were employed during the pay-roll period immediately preceding the date of this Third Direction and those who did not work during said pay-roll period because they were ill or on vacation, or temporarily laid off, and regular extra employees who, during the 6-month period immediately preceding the date of the issuance of this Third Direction of Election, have performed some work for the Company in at least 5 of such months and who have worked during the 6-month period a sufficient number of days to represent an average of 10 days' employment per month, including regular and regular extra employees in the armed forces of the United States who present themselves in person at the polls, but excluding all other regular extra employees and all employees who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the election, to determine whether they desire to be represented by Local 50-E, Elevator Operators and Starters, A. F. L., or by Local No. 372, United Retail, Wholesale, and Department Store Employees of America, C. I. O., for the purposes of collective bargaining, or by neither.

CHAIRMAN HERZOG took no part in the consideration of the above Third Supplemental Decision and Third Direction of Election