

In the Matter of WAYNE HALE *and* INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS, LOCAL 57, A. F. L.

In the Matter of WAYNE HALE *and* INTERNATIONAL WOODWORKERS OF AMERICA, C. I. O., LOCAL 5-246

Cases Nos. 19-R-1516 and 19-R-1517, respectively

SUPPLEMENTAL DECISION

ORDER

AND

SECOND DIRECTION OF ELECTION

July 20, 1945

On June 13, 1945, pursuant to the Decision and Direction of Elections issued herein on May 19, 1945,¹ separate elections by secret ballot were conducted under the direction and supervision of the Regional Director for the Nineteenth Region (Seattle, Washington). Upon the conclusion of the elections, a Tally of Ballots for each election was furnished the parties in accordance with the Board's Rules and Regulations. The Tallies show that, of the 4 eligible voters in the voting group of logging truck drivers, only 3 cast their ballots, all voting for International Woodworkers of America, C. I. O., herein called the I. W. A., and none voting for International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers, Local 57, A. F. L., while, of the 11 eligible voters in the voting group of production and maintenance employees, only 9 cast their ballots, 5 of whom voted for the I. W. A. and 4 against the I. W. A.

On June 14, 1945, the Company filed objections to the conduct of the election in the voting group of production and maintenance employees on the ground that its woods foreman, who was specifically excluded from that voting group, was permitted to vote in the election therein. On June 22, 1945, the Regional Director issued and duly served upon the parties his Report on Objections in which he stated that the woods foreman was excluded by the Board's Direction of Elections from the voting group of production and maintenance employees and that the woods foreman had

¹ 61 N. L. R. B. 1305

62 N. L. R. B., No. 190.

voted without challenge in the election held for that group; he recommended that the Company's objections be overruled for the reason that, irrespective of how the woods foreman voted, the combined vote received by the I. W. A. in both voting groups constituted a majority of all valid votes cast for the two groups.

We are unable to agree with the Regional Director's recommendation. In our Decision and Direction of Elections, we directed elections in each of two voting groups stating that "If a majority in each voting group select the I. W. A., both groups will together constitute a single unit." It is therefore necessary that the results be conclusive in each voting group before a determination as to the appropriate unit can be made. On the facts before us, we are unable to find that the results in the voting group of production and maintenance employees were conclusive. It is clear that the woods foreman was specifically excluded by the Board from that voting group, and that he was therefore ineligible to vote. It is also apparent that all parties, including the I. W. A.'s observers and the Board's agents at the election,² were aware of such ineligibility and should have challenged his ballot. Since the Board's agents had knowledge of the ineligibility of the woods foreman, and failed to challenge his ballot, and since his vote may affect the results of the election among the production and maintenance employees, we shall sustain the Company's objections.³ Accordingly, we shall set the election aside in the voting group of production and maintenance employees and shall direct a new one.

While the results among the employees in the voting group of logging truck drivers are conclusive, we shall make no final determination at this time as to the appropriate bargaining unit, but shall await the results of the second election in the voting group of production and maintenance employees which we shall direct herein. In conformity with customary practice the Regional Director may conduct the balloting by mail, if such procedure is deemed by him to be expedient.

ORDER

AND

SECOND 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, Sections 9 and 10, of National Labor Relations Board Rules and Regulations—Series 3, as amended,

IT IS HEREBY ORDERED that the election held on June 13, 1945, in the

² The Company did not have any observer at the election.

³ See *Matter of Beggs & Cobb, Inc.*, 62 N. L. R. B. 193.

voting group of production and maintenance employees and the results thereof be, and the same hereby are, vacated and set aside, and it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Wayne Hale, McKenzie Bridge, Oregon, a second election by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from the date of this Second Direction of Election, under the direction and supervision of the Regional Director for the Nineteenth Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Sections 10 and 11, of said Rules and Regulations, among the employees in the voting group below, who were employed during the pay-roll period immediately preceding the date of this Second 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, and including employees in the armed forces of the United States who present themselves in person at the polls, but excluding any who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the second election:

All production and maintenance employees of the Company, including gravel truck drivers, but excluding logging truck drivers, office and clerical employees, the woods foreman, truck foreman, and all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, to determine whether or not they desire to be represented by International Woodworkers of America, Local 5-246, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.

CHAIRMAN HERZOG took no part in the consideration of the above Supplemental Decision, Order, and Second Direction of Election