

In the Matter of AIR PRODUCTS, INC. and INTERNATIONAL ASSOCIATION OF MACHINISTS (A. F. OF L.)

In the Matter of AIR PRODUCTS, INC. and INTERNATIONAL ASSOCIATION OF MACHINISTS (A. F. OF L.); INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL UNION No. 910; UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA, LOCAL UNION, No. 74

Cases Nos. 10-R-1248 and 10-RE-13, respectively

SECOND SUPPLEMENTAL DECISION

October 2, 1945

On May 5, 1945, the Board issued a Decision and Direction of Elections,¹ directing that separate elections be conducted among the electricians in Group 1, the carpenters in Group 2, the employees in the testing department in Group 3, and the remaining production and maintenance employees in Group 4 and reserving final decision as to the appropriate bargaining units until after the elections. On June 1, 1945, the Board, as a result of elections conducted on May 24, 1945, issued its Supplemental Decision and Certification of Representatives, wherein the IBEW was certified as the bargaining representative for the electricians, the Operating Engineers for the employees in the testing department, and the IAM for all remaining production and maintenance employees. On June 9, 1945, the IAM filed a motion requesting reconsideration of the Board's Supplemental Decision and Certification of Representatives for the reason that the Tally of Ballots with respect to Groups 1 and 3, issued by the Regional Director on May 24, 1945, at the conclusion of the elections, failed to reflect the challenges to the ballots of Joe B. Key and William H. Elrod, respectively. On June 11, 1945, the Company also filed a petition requesting reconsideration for similar reasons and reiterated its contention that a single plant unit is appropriate for the purposes of collective bargaining.

On September 8, 1945, the Regional Director, acting pursuant to Article III, Section 10, of National Labor Relations Board Rules and Regulations—Series 3, as amended, issued and duly served upon the parties to the proceeding a Revised Tally of Ballots and Report on Challenged Ballots in which he recommended that the Tally of Ballots

¹ 61 N. L. R. B. 943.

63 N. L. R. B., No. 207.

for Groups 1 and 3 be revised so as to show 1 challenged ballot in each of these groups, that the challenge with respect to William H. Elrod in Group 3 be sustained, and that no determination was made with respect to Joe B. Key. No exceptions to the Report on Challenged Ballots have been filed by any of the parties.

According to the Regional Director's Report, Key and Elrod were transferred to the Electrical and Testing departments, Groups 1 and 3, respectively, subsequent to the eligibility date governing the election. At the time of the election each appeared on the Group 4 eligibility list. As a result of challenges to their ballots, Key was instructed to cast a ballot in both Groups 1 and 4, and Elrod in both Groups 3 and 4, and their ballots were then impounded. The Tally of Ballots issued at the conclusion of the election reflected such challenges only in Group 4, whereas they should also have been reflected in Groups 1 and 3. Accordingly, the Tally of Ballots for Groups 1 and 3 are hereby amended to reflect 1 challenged ballot in each of such groups in lieu of none. In consequence thereof, the Tally of Ballots in Group 3 now reveals that the challenge of Elrod's ballot in this group is sufficient to affect the results of the election.² However, inasmuch as Elrod was not employed in Group 3 on the eligibility date, we concur in the recommendation of the Regional Director and find that he was ineligible to vote in that group. We therefore sustain the challenge to his ballot and direct that it be not opened and counted.³

We have considered the requests of the Company and the IAM for reconsideration and the same are hereby denied.

² The Tally of Ballots in Group 3, as hereby amended, reveals that of 25 eligible voters, 15 valid votes were counted of which 6 were for the IAM, 8 for the Operating Engineers, 1 for neither, and 1 ballot was challenged.

³ It is unnecessary for us to determine whether Elrod's transfer to the testing department was temporary or permanent for the purpose of determining his eligibility to vote in Group 4 inasmuch as the challenges to the ballots in Group 4 are insufficient to affect the results of the election in that group. Similarly, it is unnecessary to rule upon the challenges to Key's ballots in Groups 1 and 4 inasmuch as such challenges are insufficient to affect the results of the election in either of these groups.