

IN the Matter of FAIRMONT CREAMERY COMPANY *and* INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA, LOCAL UNION 749, AND AMALGAMATED MEAT CUTTERS & BUTCHER WORKMEN OF NORTH AMERICA, LOCAL UNION 52, A. F. OF L.

*Case No. 18-R-1240*

SUPPLEMENTAL DECISION  
AND  
CERTIFICATION OF REPRESENTATIVES

*November 9, 1945*

On May 19, 1945, the National Labor Relations Board issued a Decision and Direction of Election in the above-entitled proceeding.<sup>1</sup> Pursuant to the Direction of Election, an election by secret ballot was conducted on June 6, 1945, under the direction and supervision of the Regional Director for the Eighteenth Region (Minneapolis, Minnesota). Upon conclusion of the election a Tally of Ballots was furnished the parties in accordance with the Rules and Regulations of the Board.

The Tally shows that of the approximately 31 eligible voters, 30 cast valid votes, of which 16 were for the International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, Local Union 749, and Amalgamated Meat Cutters & Butcher Workmen of North America, Local Union 52, A. F. of L., herein called the Unions, and 14 against the Unions, and that 7 votes were challenged.

On June 26, 1945, the Regional Director, acting pursuant to Article III, Section 10, of National Labor Relations Board Rules and Regulations—Series 3, as amended, issued a Report on Challenges. No objections were filed to said report by any of the parties within the time provided therefor. In view of the fact that the challenged ballots, all of which were challenged by the Company, were sufficient in number to affect the results of the Election, the Regional Director investigated their validity and incorporated his findings and recommendations in his report. He recommended that the Board sustain the challenges to the votes of Letha Hagen and Irene Stengel, but

<sup>1</sup> 61 N. L. R. B. 1311.

64 N. L. R. B., No. 139.

defer its decision on the remaining five challenges until the Board determined the status of the employees involved therein,<sup>2</sup> who were then the subject of pending unfair labor practice charges filed under Section 8 (3) of the Act.<sup>3</sup>

On August 10, 1945, the Board having duly considered the matter ordered all parties to show cause in writing why the Board should not sustain the Regional Director's recommendations as to the challenged ballots of Letha Hagen and Irene Stengel and open the remaining five challenged ballots to determine whether or not these ballots affect the result of the election, because it appeared that if there had been less than two of the challenged ballots cast against the Unions, the Unions would retain their majority vote and consequently could be jointly certified as the bargaining representative without awaiting a determination of the unfair labor practice charges. The Company having shown cause, the Board on September 11, 1945, ordered that the five challenged ballots remain impounded pending the Board's determination of the unfair labor practice charges.

On September 24, 1945, the Trial Examiner in Case No. 18-C-1135 issued his Intermediate Report wherein he found, inter alia, that the five employees whose votes were challenged in the election had not been discriminatorily discharged, and recommended that the complaint as to these employees be dismissed. Neither the Company nor the Unions filed exceptions to the foregoing finding and recommendations of the Trial Examiner, within the time provided therefor.

We have considered the Regional Director's Report on Challenges, and in accordance with his recommendation, find that Letha Hagen and Irene Stengel had severed their employment relationship with the Company prior to the pay-roll period used for determining the eligibility to vote in the election; we, therefore, sustain the challenges to their ballots. Furthermore, in view of the fact that the Trial Examiner in Case No. 18-C-1135 has found that Katherine Harbert, Ada Anderson, Maxine Rhead, Ella Kuper, and Stella Anderson were not discriminatorily discharged and since no exceptions to the foregoing finding were filed by either of the parties here involved, we find that the five afore-mentioned persons were not employees of the Company during the pay-roll period used for determining eligibility to vote in the election, and accordingly, we declare their votes invalid.

The Tally shows that a majority of all the valid votes counted have been cast for the Unions; we shall, therefore, certify them as the exclusive bargaining representatives of the employees in the unit heretofore found to be appropriate.

<sup>2</sup> Katherine Harbert, Ada Anderson, Maxine Rhead, Ella Kuper, and Stella Anderson.

<sup>3</sup> *Matter of Fairmont Creamery Company*, Case No. 18-C-1135.

## CERTIFICATION OF REPRESENTATIVES

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 the National Labor Relations Board Rules and Regulations—Series 3, as amended,

IT IS HEREBY CERTIFIED that International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, Local Union 749, and Amalgamated Meat Cutters & Butcher Workmen of North America, Local Union 52, A. F. of L., has been designated and selected by a majority of all employees of Fairmont Creamery Company, Canton, South Dakota, excluding clerical employees 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, as their joint bargaining representative for the purposes of collective bargaining, and that, pursuant to Section 9 (a) of the National Labor Relations Act, the said organizations are the exclusive representative of all such employees for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other conditions of employment.

MR. GERARD D. REILLY took no part in the consideration of the above Supplemental Decision and Certification of Representatives.