

In the Matter of GENERAL CHEMICAL WORKS *and* INTERNATIONAL
CHEMICAL WORKERS UNION, LOCAL 25, A. F. OF L.

Case No. 20-R-1360

SUPPLEMENTAL DECISION
AND
CERTIFICATION OF REPRESENTATIVES

April 9, 1946

On January 18, 1946, pursuant to a Decision and Direction of Elections issued by the Board on October 19, 1945 (64 N. L. R. B. 357), as thereafter amended by Orders issued on November 14 and December 13 and 20, 1945, an election was conducted among employees of General Chemical Company, Nichols, California, in the unit of Nichols plant laboratory employees found appropriate in the Decision, under the direction and supervision of the Regional Director for the Twentieth Region (San Francisco, California). Upon the conclusion of this election, a Tally of Ballots was furnished the parties in accordance with the Rules and Regulations of the Board.

The Tally indicates that of the six eligibles in the voting group, five cast valid votes, of which three were for and two against International Chemical Workers Union, Local 25, A. F. of L., herein called the Union. In addition, one ballot was challenged.

Inasmuch as it appeared that the challenged ballot might affect the results of the election, the Regional Director, pursuant to Article III, Section 10, of National Labor Relations Board Rules and Regulations—Series 3, as amended, investigated the issue raised by the challenged ballot, and on March 1, 1946, issued and duly served upon the parties a "Report on Challenged Ballot." In his Report, the Regional Director recommended that the challenge to the ballot, cast by one, Allen W. Hardy, be sustained. On March 18, 1946, the Company filed with the Board exceptions to the Regional Director's Report.¹

We have considered the Regional Director's Report, the Company's exceptions thereto, and the entire record in the case. For reasons

¹The Company had previously been granted an extension of time within which to file exceptions.

hereinafter stated, we shall sustain the challenge, as recommended by the Regional Director.

The Direction of Elections, as finally amended by the Order of December 20, 1945, limited eligibility to participate in the election to "employees [in the unit of Nichols plant laboratory employees] who were employed during the pay-roll period immediately preceding the date of this Amendment, *including employees who did not work during the said pay-roll period because they were ill or on vacation or temporarily laid off . . .*". [Italics supplied.] Thus, the pay-roll period of the Company determining eligibility was that of December 1-15, 1945. Hardy, although listed on the pay roll of the Nichols plant for this period, effective as of December 1, 1945, was employed at another plant of the Company through December 14. On December 15, he was in transit to the Nichols plant, and actually reported at that plant for work on December 17.²

It is apparent from the wording of the Direction of Elections, as amended, that only employees in the unit *working* at the Nichols plant during the December 1-15, 1945, period were eligible, for the portion of the Direction emphasized above exempted from this requirement only those employees in the unit who were *not working* at the plant for certain specified reasons. It is clear that Hardy was not working at the Nichols plant at any time between December 1 and December 15, and that he was not absent therefrom because he was ill or on vacation or temporarily laid off. Consequently, we find him to have been ineligible to participate in the election, and his ballot is hereby declared invalid.

Under the circumstances, we conclude that a majority of the valid votes cast in the election were for the Union, and we shall therefore certify it.

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

IT IS HEREBY CERTIFIED that International Chemical Workers Union, Local 25, A. F. of L., has been designated and selected by a majority of laboratory employees of the Nichols, California, plant of General Chemical Company, including the assistant chief chemist, the control chemists, the junior laboratory assistants, and the junior draftsman,

² In its exceptions, the Company asserts, in effect, that, because of a strike at the Nichols plant, Hardy could not commence work there at the time of his assignment. We note that the Company states in its exceptions that the strike was concluded on December 10, 1945.

but excluding the chief chemist and all other 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 representative for the purposes of collective bargaining, and that, pursuant to Section 9 (a) of the Act, the aforesaid organization is 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.