

WHITE CONSTRUCTION AND ENGINEERING COMPANY, INC. and INTERNATIONAL BROTHERHOOD OF BOILERMAKERS, IRON SHIP BUILDERS AND HELPERS OF AMERICA, AFL, LOCAL No. 433, PETITIONER. *Case No. 10-RC-923. June 21, 1951*

Supplemental Decision and Certification of Representatives

Pursuant to a Decision and Direction of Election,¹ issued November 14, 1950; by the National Labor Relations Board, an election by secret ballot was conducted under the direction and supervision of the Regional Director for the Tenth Region on December 8, 1950, among certain employees of the Employer in the appropriate unit. At the close of the election a tally of ballots was served upon the parties. The tally showed that of approximately 20 eligible voters, 17 cast valid ballots, of which 12 were for the Petitioner, 5 were for no union, and there were 4 challenged ballots. On December 11, 1950, the Employer filed timely objections to the election. Thereupon, in accordance with the Board's Rules and Regulations, the Regional Director conducted an investigation, and issued and caused to be served upon the parties a report on the objections, dated February 15, 1951, wherein he found that 2 of the Employer's 13 objections raised no substantial or material issues, and recommended that these 2 objections be overruled. He referred to the Board for ruling thereupon the remaining 11 of the Employer's objections. Thereafter, the Employer filed exceptions to the Regional Director's report, and also a brief in support of said exceptions.

Pursuant to the provisions of Section 3 (b) of the Act, the Board has delegated its powers in connection with this case to a three-member panel [Chairman Herzog and Members Reynolds and Murdock].

The Employer's request for oral argument is hereby denied as, in our opinion, the Employer's objections to the election, its exceptions to the Regional Director's report on objections and its brief in support thereof, and the entire record in this case, adequately present the issues and the positions of the parties.

1. The 11 objections which the Regional Director referred to the Board for ruling will be considered first.

(a) Three objections variously question the validity and adequacy of the Petitioner's showing of representative interest among the employees made in this case. The Board has repeatedly held that the showing of interest is an administrative matter for its own determination and is not subject to collateral attack.² Accordingly, we find no merit in these three objections.

¹ 92 NLRB 53.

² *O. D. Jennings & Company*, 68 NLRB 516; and *Mount Whitney Lumber Company*, 90 NLRB No. 84.

(b) A second group of three objections states, in substance, that the Petitioner had not requested recognition and the Employer had not declined to grant recognition before the petition was filed; and therefore, the Employer alleges, the requirements of Section 9 (c) (1) of the Act have not been met, thus precluding the Board from processing the petition. The Board has considered the identical question in the past and has found it to be without merit.³ Accordingly, we shall overrule these three objections.

(c) The Employer's seventh objection contests the Board's finding that the Employer is engaged in interstate commerce within the meaning of the Act, as found in the Board's Decision and Direction of Election. The Board gave full consideration to the Employer's contentions with respect to commerce at the time it rendered its original decision. No reason now exists for altering the finding made at that time. We therefore reject this objection of the Employer.

(d) The eighth objection alleges that in view of the Board's disposition of the commerce question, the Members of the Board, individually, could not have fully considered all the evidence presented by the Employer. The Members of the Board participating in the consideration of this case have carefully considered all the evidence presented to the Board. Accordingly, this objection of the Employer is overruled.

(e) The Employer's ninth objection challenges the appropriateness of the bargaining unit. We have reexamined the unit issue, and affirm our initial determination made with respect to the unit. The ninth objection therefore is without merit.

(f) The tenth objection raises in issue the Employer's motion made on December 2, 1950, to postpone the holding of the election in this case for a period of 60 days. In denying the motion on December 5, 1950, the Board was of the opinion that such a postponement was not warranted. We are convinced that our denial of the motion at that time was correct. The Employer's tenth objection is therefore overruled.

(g) The last of the 11 objections referred to the Board by the Regional Director requests that the Board remand the case to a hearing officer for further hearing on the petition because, in the Employer's view, the initial hearing in this matter was incomplete. No cogent reason has been advanced which, in our opinion, would warrant this unusual procedure. We are convinced that at the original hearing the Employer was given every opportunity to present whatever evidence it believed relevant to the positions it was taking in the matter. Accordingly, we hereby overrule this objection.

³ *Advance Pattern Company*, 80 NLRB 29.

2. The two remaining objections with respect to which the Regional Director conducted an investigation and then recommended that the objections be overruled, generally challenge the Board's action in holding the election as illegal, characterizing said action as a deprivation of the Employer's personal rights, a violation of the Employer's "property and constitutional rights," and a usurpation of the Employer's "business management prerogatives and authority." The Board's authority for holding elections following hearings upon petitions duly filed is found in the Labor Management Relations Act, the constitutionality of which is too well established to require citation of authority. Moreover, we are convinced that the Regional Director and his agents conducted the election in strict conformity with the Board's Rules and Regulations issued pursuant to Section 6 of the Act. Accordingly, we adopt the Regional Director's recommendation that these two objections be overruled.

On the basis of the foregoing, we find that neither the objections or exceptions of the Employer raise substantial or material issues with respect to the conduct of the election in this case.

Inasmuch as the tally of ballots shows that a majority of all ballots was cast for the Petitioner, and that the challenged ballots are insufficient to affect the results of the election, we shall certify the Petitioner as the collective bargaining representative of the employees in the appropriate unit.

Certification of Representatives

IT IS HEREBY CERTIFIED that International Brotherhood of Boilermakers, Iron Ship Builders and Helpers of America, AFL, Local No. 433, has been designated and selected by a majority of the employees of White Construction and Engineering Company, Inc., St. Petersburg, Florida, in the unit heretofore found by the Board to be appropriate, as their representative for the purposes of collective bargaining, and that pursuant to Section 9 (a) of the Act, the said organization is the exclusive representative of all the employees in such unit for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other conditions of employment.

FEDERAL CARTRIDGE CORPORATION (TWIN CITIES ARSENAL) and INTERNATIONAL ASSOCIATION OF MACHINISTS. DISTRICT LODGE No. 77, A. F. OF L., PETITIONER. *Case No. 18-RC-1044. June 21, 1951*

Decision and Direction of Elections

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Max Rotenberg, hearing