

In the Matter of CONTINENTAL PIPE LINE COMPANY and INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL NO. 550, A. F. L.

Case No. 16-C-1219

ORDER DENYING MOTION

June 25, 1946

On April 17, 1946, the National Labor Relations Board, herein called the Board, issued a Decision and Order in the above-entitled proceeding,<sup>1</sup> in which it held, *inter alia*, that the respondent, Continental Pipe Line Company, Ponca City, Oklahoma, had discriminatorily discharged James M. Pumpelly because of his activities in International Union of Operating Engineers, Local No. 550, A. F. L., and had thereby engaged in unfair labor practices within the meaning of Section 8 (3) of the Act. Thereafter, on May 27, 1946, the respondent filed a motion with the Board, in which it alleged the discovery of additional evidence by it showing that Pumpelly resigned and was not discharged, and requested that the proceeding be reopened for the purpose of receiving such additional evidence. Counsel for the Board filed an opposition to the motion. The only specific additional evidence set forth in the motion is the allegation that on September 5, 1944, shortly after the termination of Pumpelly's employment with the respondent, A. C. Wilkinson, the respondent's vice president at Ponca City, Oklahoma, in answer to a communication from Pumpelly, sent the latter a telegram, in which he informed Pumpelly that Superintendent Greenwell, who had been Pumpelly's supervisor, had advised him that Pumpelly had resigned on September 4 [1944].<sup>2</sup>

The respondent was afforded full opportunity at the hearing to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing upon the issues. We also believe that the respondent delayed unduly in not filing its motion until approximately 6 months after the date of the hearing and subsequent to our Decision herein.

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<sup>1</sup> 67 N L R B. 389.

<sup>2</sup> The only other reference in the motion to additional evidence is a general allegation that Wilkinson, who was unable to be present at the hearing, would further testify with reference to his knowledge of the circumstances surrounding the termination of Pumpelly's employment. It does not appear that Wilkinson has any further knowledge of significant probative value under the circumstances of the case.

Moreover, it appears that the only specific additional evidence that the respondent states it will introduce, Wilkinson's testimony that Superintendent Greenwell, who was himself a witness at the hearing, advised Wilkinson that Pumpelly had resigned, has little probative value and would not affect our conclusion, based upon the direct evidence of Superintendent Greenwell and Pumpelly, that Pumpelly did not resign but was discharged. We shall accordingly deny the motion.

IT IS HEREBY ORDERED that the respondent's motion to reopen the case for the purpose of receiving further evidence be, and it hereby is, denied.

CHAIRMAN HERZOG took no part in the consideration of the above Order Denying Motion.