

In the Matter of THE REARDON COMPANY and UNITED GAS, COKE  
AND CHEMICAL WORKERS OF AMERICA, CIO

*Case No. 14-C-921*

AMENDED DECISION

AND

ORDER

*July 26, 1946*

On October 8, 1945, the Board issued its Decision and Order,<sup>1</sup> finding that the respondent had engaged in and was engaging in unfair labor practices within the meaning of Section 8 (5) and (1) of the Act, and ordering the respondent to cease and desist therefrom and to take certain affirmative action.

On March 31, 1946, the Board filed a petition for enforcement of its order with the Circuit Court of Appeals for the Eighth Circuit. Thereafter the Board became aware that it had not previously fully considered certain facts which would affect its decision in the case, and accordingly filed with the court a Motion for leave to withdraw its petition for enforcement together with the certified record of the proceedings before the Board. The court granted this Motion, which was consented to by counsel for the respondent, on June 24, 1946.

The Board has again considered its Decision and Order of October 8, 1945, the Intermediate Report attached thereto and made a part thereof, the respondent's exceptions and brief, and the entire record in the case, and hereby adopts its original findings and conclusions, *with* the exceptions and qualifications hereinafter set forth.

In our Decision and Order of October 8, 1945, we found that the Union's majority status was unaffected by the reduction in force of January 25, February 2, and February 9, 1944; and that among the 14 employees laid off were included 9 of the 17 known union members, leaving 8 known union members in the group of 14 remaining employees, or a clear majority. However, this reasoning did not take into account the intervening change in status of Willie Simms. Simms was 1 of the 17 known union members whose authorizations were checked off on January 19, 1944. Subsequently, but prior to the date of the alleged refusal to bargain, Simms was discharged for

<sup>1</sup> 63 N. L. R. B. 1461.

69 N. L. R. B., No. 117.

cause. Accordingly, instead of 8, there remained only 7 union members among the 14 remaining employees, or less than a majority after February 9, 1944. We, therefore, find that, as the Union did not represent a majority of the employees, the respondent was not under any obligation to bargain with it and its conduct in refusing to do so was not violative of Section 8 (5) and (1) of the Act.

Inasmuch as we have previously dismissed all the allegations in the complaint except that alleging a refusal to bargain, and inasmuch as we now find that the respondent was under no duty to bargain with the Union in the circumstances of this case, we shall dismiss the entire complaint.

### ORDER

Upon the basis of the foregoing findings of fact and conclusions of law, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the complaint issued against The Reardon Company, St. Louis, Missouri, be, and it hereby is, dismissed.