

In the Matter of ALLIS-CHALMERS MANUFACTURING COMPANY and
UNITED ELECTRICAL, RADIO & MACHINE WORKERS OF AMERICA, LOCAL
No. 613, AFFILIATED WITH C. I. O.

Case No. 6-C-1023

ORDER

February 19, 1947

At the hearing in the above-mentioned case, upon completion of the Board's presentation of evidence, Allis-Chalmers Manufacturing Company, the respondent herein, filed with the Trial Examiner a Motion to Dismiss the Complaint on the grounds that:

(a) the evidence presented in support thereof did not establish violation of the National Labor Relations Act, and

(b) in any event, the issues involved herein became moot when the Company and the Union executed a collective bargaining agreement on September 16, 1946.

This motion having been denied by the Trial Examiner, the respondent filed a petition with the Board requesting leave to take an interlocutory appeal from the Trial Examiner's ruling, which petition was granted. Briefs on the motion have been submitted to the Board by the respondent and by counsel for the Board, a telegram in opposition to the motion has been received from the Union, and the Board has duly considered the matter.

The respondent's motion is denied. As we are nevertheless, for the reasons stated below, dismissing the complaint without prejudice, we deem it unnecessary to pass upon the first ground urged by the respondent in its motion to dismiss. As to the second ground, execution by the parties of a collective bargaining agreement after the institution of this proceeding does not render moot the question of whether or not the respondent previously violated Section 8 (5) of the Act by refusing to bargain with the Union.

Nevertheless, execution of the contract, which provides that it shall remain in effect until April 15, 1948, does render unnecessary at this time an affirmative order of the Board in this case requiring the respondent to bargain with the Union. Furthermore, completion of the

hearing and processing of the case would require a substantial expenditure of time, when the Board has a heavy case load requiring attention, and is operating under serious budgetary limitations.

We are of the opinion that under these circumstances the larger purposes and policy of the Act would not be effectuated by our proceeding further in this case. Accordingly, we shall dismiss the complaint, without prejudice to our consideration of the matters covered therein in an appropriate manner in any new proceeding which may be instituted in the event that the respondent is at some future time charged with the commission of unfair labor practices.

There are no disputed issues of fact to be considered in disposing of this motion, the question of mootness is a simple legal issue, the arguments have been adequately presented in the briefs filed by the respondent and by counsel for the Board, and we are dismissing the complaint on grounds of administrative policy. The oral argument requested by the respondent on its motion to dismiss is therefore deemed unnecessary and is hereby denied.

IT IS HEREBY ORDERED that the complaint issued against Allis-Chalmers Manufacturing Company, Pittsburgh, Pennsylvania, be, and it hereby is, dismissed without prejudice.

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