

In the Matter of WILSON ATHLETIC GOODS MANUFACTURING CO., INC.
and UAW-AFL, AMALGAMATED LOCAL NO. 286

Case No. 13-R-4199

SUPPLEMENTAL DECISION

AND

DIRECTION

February 20, 1948

On July 25, 1947, pursuant to a Decision and Direction of Election¹ issued by the Board herein, an election by secret ballot was conducted under the direction and supervision of the Regional Director for the Thirteenth Region, Chicago, Illinois. Upon the conclusion of the election a Tally of Ballots was furnished the parties. The Tally shows that there were approximately 700 eligible voters and that 538 ballots were cast, of which 256 were for the Petitioner, 240 for the Intervenor, 19 for neither, and there were 23 challenged ballots.

On July 31, 1947, the Intervenor filed Objections to Election, averring that at a meeting with a Board agent on June 27, 1947, the parties agreed that the Notice of Election would be prepared and forwarded by the Board and posted on the Employer's premises 10 days prior to the election.

On November 21, 1947, the Regional Director issued his Report on Challenged Ballots and Objections to Election recommending that the Intervenor's objections to the election be overruled and that the challenges of 21 ballots be overruled and 2 sustained. Thereafter, the Employer and the Intervenor filed exceptions to the Regional Director's recommendations concerning 12 "part-time" employees,² whose ballots were challenged. The Intervenor also excepted to the Regional Director's recommendations concerning its Objections to Election. Neither the Employer's nor the Intervenor's exceptions raise material issues with respect to the facts reported by the Regional Director.

¹ 74 N. L. R. B. 150.

² No exceptions were filed to the recommendations of the Regional Director concerning the remaining 11 challenged ballots.

76 N. L. R. B., No. 45.

As to the 12 challenged ballots, the Board has held, frequently, that regular part-time employees have sufficient interest to entitle them to vote in an election of bargaining representatives.³ The Regional Director's investigation reveals that 11 of the 12 challenged ballots here in dispute were, in fact, cast by regular part-time employees who work for the Employer a substantial number of hours each week. Contrary to the contentions of the Employer and the Intervenor, we can perceive nothing in the record which indicates agreement of the parties to exclude part-time workers from participation in the election. It would appear, however, that the 12th challenged ballot in this group was cast by a temporary worker who was hired only for the period of school summer vacation.⁴ Temporary employees consistently have been held to be ineligible voters.⁵ Under these circumstances we hereby adopt the recommendations of the Regional Director as to 11⁶ of the 12 disputed ballots by overruling the challenges, and we shall direct that those ballots be opened and counted. As it appears that the remaining disputed ballot was cast by a temporary employee, we hereby overrule the recommendation of the Regional Director with respect to the disposition of this ballot, and sustain the challenge thereto.

The Regional Director also recommended that the Intervenor's Objections to Election be overruled, inasmuch as the Notices of Election were posted at the main plant on July 21, 1947, and at the two warehouses the following morning. The Regional Director concluded that the eligible voters received adequate notice of the election, which was held on July 25, 1947, and that the validity of this election, conducted pursuant to the Board's direction and in conformity with the Board's established policy was therefore unaffected by any "collateral" agreement specifying that the official notices should be posted 10 days in advance. We agree. The Board has no fixed rule regarding the time when notices of an election must be posted, requiring only such advance notice as is reasonable under the circumstances of a particular case. In this case the requirement of reasonable notice was clearly satisfied, for nearly 77 per cent of the eligible employees voted in the election, and there is no showing that any employee was foreclosed from voting because of the failure to post the official notices earlier than was done.⁷ Accordingly, we hereby overrule the Intervenor's Objection to Elec-

³ See Eleventh Annual Report, p 21 and cases cited therein

⁴ This ballot was cast by Roman T. Wozny

⁵ See Eleventh Annual Report, p 21, and cases cited therein

⁶ These ballots were cast by Klawitter, Cieslik, Lewandowski, Kedroski, Morys, Markiewicz, Lepavsky, Jayko, Aripoli, Wieckowski, and Dolan

⁷ In these circumstances it is immaterial that the Board agent who arranged for the election may have undertaken to furnish the printed notices 10 days in advance of the election, as the Intervenor alleges

tion, and its Exceptions to the Regional Director's report in this respect.

There having been no exceptions filed to the Regional Director's recommendations as to the remaining 11 challenged ballots, we hereby adopt the Regional Director's recommendations by overruling the Board agent's challenges as to the six employees whose names the Company inadvertently left off the eligibility list,⁸ and the Petitioner's challenge of three voters alleged to be supervisory employees.⁹ The Board agent's challenges to the ballots cast by Arthur Mann and Wanda Lukasik on the grounds that the former was employed on a date subsequent to the issuance of the Board's Decision and Direction of Election, and that the latter is a clerical employee, are hereby sustained.

DIRECTION

By virtue of and pursuant to the power vested in the National Labor Relations Board by Section 9 (c) (1) of the National Labor Relations Act, as amended, and pursuant to Section 203.61 of National Labor Relations Board Rules and Regulations—Series 5, it is hereby.

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Wilson Athletic Goods Manufacturing Co., Inc., Chicago, Illinois, the Regional Director for the Thirteenth Region shall, pursuant to the Rules and Regulations of the Board set forth above, within ten (10) days from the date of this Direction open and count the ballots of Klawitter, Cieslik, Lewandowski, Kedroski, Morys, Markiewicz, Lepavsky, Jayko, Aripoli, Wieckoski, Dolan, Drozinski, Frank, Gorski, Pliska, Billings, Czaja, D'Ecliss, Craig, and Schultz, and thereafter prepare and serve upon the parties to this proceeding a Supplemental Tally of Ballots, including therein the count of these challenged ballots.

CHAIRMAN HERZOG and MEMBER GRAY took no part in the consideration of the above Supplemental Decision and Direction.

⁸ These ballots were cast by Pliska, Billings, Czaja, D'Ecliss, Craig and Schultz.

⁹ These ballots were cast by Drozinski, Frank, and Gorski.