

In the Matter of THE HILLS BROTHERS COMPANY and FOOD, TOBACCO,
AGRICULTURAL, AND ALLIED WORKERS UNION OF AMERICA, CIO

Case No. 10-C-1817.—Decided March 8, 1948

Mr. M. A. Prowell, for the Board.

Mr. Alexander E. Wilson, Jr., of Atlanta, Ga., for the respondent.

Mr. John G. Lackner, of Tampa, Fla., for the Union.

DECISION

AND

ORDER¹

On August 5, 1947, Trial Examiner Sidney L. Feiler issued his Intermediate Report in the above-entitled proceeding, finding that the respondent had engaged in and was engaging in certain unfair labor practices and recommending that it cease and desist therefrom and take certain affirmative action, as set forth in the copy of the Intermediate Report attached hereto.² Thereafter, the respondent filed exceptions to the Intermediate Report and filed a brief in support thereof, and requested oral argument. The respondent's request for oral argument is hereby denied, inasmuch as the record and briefs, in our opinion, adequately present the issues and positions of the parties.

The Board has reviewed the rulings of the Trial Examiner made at the hearing and finds that no prejudicial error was committed. The rulings are hereby affirmed. The respondent's motion to dismiss on the ground that the union is not in compliance with Section 9 (f), (g), and (h) is without merit and is hereby overruled.³ The Board has considered the Intermediate Report, the exceptions and brief, and the entire record in the case, and finds merit in the respondent's exceptions.

¹ The power of the Board to issue a decision and order in a case such as the instant one, where the charging union has not complied with the filing requirements specified in Section 9 (f), (g), and (h) of the Act, as amended, was decided by the Board in *Matter of Marshall and Bruce Company*, 75 N. L. R. B. 90.

² The provisions of Sections 8 (1) and 8 (4) of the National Labor Relations Act, which the Trial Examiner found were violated, are reenacted in Sections 8 (a) (1) and 8 (a) (4) of the Labor Management Relations Act, 1947.

³ See footnote 1, *supra*, and *Matter of Electrical Testing Laboratories, Inc.*, 75 N. L. R. B. 384

The Trial Examiner found that, in violation of Section 8 (4) of the Act, Jones was denied reemployment because she had given testimony at a prior Board proceeding. We do not agree. Supervisor Kight testified that he refused to reemploy Jones because no vacancies existed at the time she applied for work. On the other hand, Jones testified that, in refusing her reemployment, Kight stated, "We can't use you. You said you could be off 3 weeks without permission." The Trial Examiner in resolving this conflict in testimony credited the version of Mrs. Jones.

Some question has arisen concerning the propriety of the Trial Examiner's credibility findings in this respect. While the record indicates that these credibility findings may not be beyond dispute, the record is clear that the Trial Examiner's findings are not unreasonable. In view of this and in view of the Trial Examiner's opportunity to observe the demeanor of the witnesses on the stand, we are reluctant to disturb his credibility findings. However, we are not thereby precluded from weighing the evidentiary value of Jones' credited testimony.

Although the record discloses, as contended by the respondent, that no vacancies existed at the time Jones applied for employment, the Trial Examiner found that this fact did not constitute a valid defense, for in his view the statement of Kight, as recounted by Jones, conclusively established the existence of a discriminatory motivation in the refusal to hire. In reaching his conclusion, the Trial Examiner found that Kight's statement "clearly referred" to testimony given by Jones in a prior Board proceeding. While the refusal to hire followed shortly after Jones had testified, there is a complete lack of substantive evidence in the record to support such an unequivocal finding connecting Kight's statement to the prior proceeding. For all the record shows, the subject matter of Jones' prior testimony may have been repeated by her in private conversations to others who afforded the source of Kight's information.⁴ Moreover, the only affirmative evidence relative to Kight's knowledge of the prior proceeding refutes the Trial Examiner's finding, for Kight testified without contradiction that when he refused to hire Jones he was unaware that she had participated in the prior proceeding.

However, assuming that Kight had reference to Jones' prior testimony, his statement does not necessarily give rise to the inference that he refused Jones reemployment because of her act of testifying, as such, for it is equally as cogent to infer, in the absence of contrary evidence,

⁴ The record discloses that Mrs. Jones was frequently absent during her former employment with the respondent.

that Kight refused her employment because her testimony revealed such a lack of dependability as warranted a refusal to rehire.⁵

Accordingly, we find that there is insufficient evidence in the record to establish that the respondent, in violation of Section 8 (4), discriminatorily refused to rehire Jones because she had given testimony at a Board proceeding.

Inasmuch as we have reversed all the Trial Examiner's findings of unfair labor practices, and in view of the fact that we agree with his findings and conclusions with respect to the allegations of the complaint as to which he recommends dismissal, we shall dismiss the complaint in its entirety.

ORDER

Upon the entire record in the case, and pursuant to Section 10 (c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that the complaint issued herein against The Hills Brothers Company, Bartow, Florida, be, and it hereby is, dismissed.

CHAIRMAN HERZOG and MEMBER HOUSTON took no part in the consideration of the above Decision and Order.

INTERMEDIATE REPORT

Mr. M. A. Prowell, for the Board.

Mr. Alexander E. Wilson, Jr., of Atlanta, Ga., for the Respondent.

Mr. John G. Lackner, of Tampa, Fla., for the Union.

STATEMENT OF THE CASE

Upon a charge duly filed by Food, Tobacco, Agricultural and Allied Workers Union of America, CIO, herein called the Union, the National Labor Relations Board, herein called the Board, by its Regional Director for the Tenth Region (Atlanta, Georgia), issued its complaint dated April 8, 1947, against The Hills Brothers Company, Bartow, Florida, herein called the Respondent, alleging that the Respondent had engaged in and was engaging in unfair labor practices affecting commerce within the meaning of Section 8 (1), (3), and (4) and Section 2 (6) and (7) of the National Labor Relations Act, 49 Stat 449, herein called the Act. Copies of the complaint and notice of hearing thereon were duly served upon the Respondent and the Union.

With respect to unfair labor practices, the complaint alleges that the Respondent on or about November 5, 1945, discharged, refused to reemploy or to reinstate Callie R. Jones because she joined or assisted the Union and engaged in concerted activities with other employees for the purpose of collective bargaining and other mutual aid and protection and because she gave testimony in a proceeding before the Board on or about October 23, 1945. The complaint further alleges that from on or about October 23, 1945, the Respondent by

⁵ See *Matter of Fairmont Creamery Company*, 73 N. L. R. B. 1380, 1411, 1412.

certain named supervisory employees, expressed disapproval of the Union, threatened an employee because of her testimony at a Board hearing, and interfered with the conduct of proceedings before the Board

The Respondent in its answer, dated April 28, 1947, admits certain jurisdictional allegations, but denies the commission of any unfair labor practices.

Pursuant to notice a hearing was held at Bartow, Florida, on April 28, 1947, before the undersigned, Sidney L Feiler, the Hearing Examiner designated by the Chief Trial Examiner. The Board and the Respondent were represented by counsel; the Union, by a representative. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all parties.

At the close of the Board's case-in-chief, the Respondent moved to dismiss the complaint for lack of any evidence of unfair labor practices. The motion was denied. After all the evidence had been presented, the Board moved to conform the complaint to the proof as to formal matters. The motion was granted without objection as to all pleadings. The Board and the Respondent then presented oral argument. A date was set for the submission of briefs and proposed findings of fact and conclusions of law. Briefs were received from the Board and the Respondent

Upon the entire record in the case, and from his observation of the witnesses, the undersigned makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE RESPONDENT

The Hills Brothers Company is a New York corporation having its principal office in New York City. At its plant in Bartow, Florida, the only one of its operations with which this proceeding is concerned, the Respondent is engaged in the processing of citrus fruit and in the manufacture of ginger-bread mix.

In the course and conduct of its business at its Bartow plant, the Respondent processes, packs, and ships annually more than 1,000,000 cases of its products valued at more than \$500,000, of which more than 50 percent is shipped to points outside the State of Florida. At the same plant, the Respondent uses raw materials and supplies valued at more than \$150,000 annually, of which more than 25 percent is obtained outside the State of Florida and shipped to its Bartow plant

The Respondent's operations at Bartow are seasonal in nature; a season normally extends from November to May. At the time of the hearing about 100 employees were engaged at the Bartow plant operation, the peak number of employees during the previous season having been approximately 450.

The Respondent conceded for the purpose of this proceeding that it was engaged in interstate commerce within the meaning of the Act, and the undersigned so finds

II THE ORGANIZATION INVOLVED

Food, Tobacco, Agricultural and Allied Workers Union of America, CIO, is a labor organization admitting to membership employees of the Respondent.

III. THE UNFAIR LABOR PRACTICES

A. Background

The parties to the present proceeding were also parties in another Board proceeding in which Respondent was charged with the commission of unfair labor

practices (Case No. 10-C-1678). The Board, in its decision, found that the Respondent had discharged two employees and had discharged or refused to re-employ one employee in violation of Section 8 (3) of the Act. The Board also found that the Respondent had independently violated Section 8 (1) of the Act.¹ Subsequently, the Respondent took steps to comply with the order of the Board therein.²

The hearing before the Trial Examiner in the prior proceeding took place on October 23, 24, and 25, 1945. Callie R. Jones testified on October 23, 1945, as a Board witness. She testified as to the removal of a machine from the plant before an election, and that it was customary for employees in her department to talk or sing while at work. The major portion of her testimony related to her having taken 3 weeks off for sickness without prior notice to the Company, that she returned to work without any trouble, and that she knew of no rule requiring an employee to give prior notice to the Company when an employee would absent himself from work, and that the majority of the employees had done so. This portion of her testimony related to one of the discharges.

B. The discriminatory refusal to reemploy Mrs Callie R Jones

Mrs Jones had been employed by the Respondent for approximately 17 seasons, including the 1944-45 season. During her last 2 seasons, she had been employed as a grader. As such, her assignment was to watch fruit on a belt line conveyor and remove the bad fruit.

Mrs Jones, during the 1944-45 season, was on good terms with her immediate supervisor, Herbert Kight, foreman of the Juice Department. The Respondent's records show that she took a good deal of time off from work in February, March, and April 1945. While there is disagreement in the testimony of Mrs Jones and Kight as to whether she obtained prior permission for each absence, there is no dispute over the fact that she had no difficulty in continuing in her job when she reported for work.

On April 24, 1945, Mrs. Jones quit her job. She testified that she saw Kight before she quit, that she was not sure what she told him, but "supposed" that she told him that her daughter was sick. She denied that she had quit because she had secured a position with another concern, the Southern Phosphate Company. As to this, she testified that she had filed an application with that concern and had told Kight of it several days before she left the Respondent's employ, but she maintained that she never worked for the Southern Phosphate Company.

Kight's version was that Mrs Jones told him, at the time she quit, that she had a better job at the Southern Phosphate Company and thought that she would take it. His testimony was supported by Charles M. Lee, a gateman at the Respondent's plant. He testified that in the latter part of April 1945, Mrs. Jones told him that she would not be back at the plant any more because she had a position with another concern. The undersigned credits Lee's testimony.

In view of Mrs. Jones' uncertainty as to what was said when she quit and Lee's testimony, the undersigned credits Kight's version as to what occurred at that time.

Kight further testified that approximately 2 weeks later, a "little bit" before the plant shut down on May 8, 1945, Mrs. Jones reapplied for work, but he told

¹ 67 N L R B 1249 (May 9, 1946)

² 161 F (2d) 179 (C C A 5).

her that he had replaced her. Mrs. Jones denied that testimony. On cross-examination, Kight admitted that he could not remember whether Mrs. Jones spoke with him before the plant closed or later. The undersigned credits Mrs. Jones' denial of his testimony.

The juice season ended on May 8, 1945, approximately 2 weeks after Mrs. Jones quit. Operations were resumed on November 7, 1945. Mrs. Jones gave testimony in the prior proceeding on October 23, 1945.

Mrs. Jones testified that she spoke to Kight four times in an effort to get her job back. The first occasion, she testified, was soon after her October 23, 1945, testimony and on a Saturday night. She met Kight in Bartow and asked him for her job and he replied, according to Mrs. Jones, that men were going to be used on those jobs. The following Saturday, when she met him and asked about employment, he told her that only the wives of men working in the Juicing Department would be used. Mrs. Jones testified that she had another talk with Kight, "possibly the next Saturday night, or it was just before the plant started." On that occasion, Kight in reply to her request for work, said to her, according to Mrs. Jones, "No, we can't work you."

Mrs. Jones further testified that she made a final effort to secure employment on Monday or Tuesday of the following week and first spoke with Starr Davis, superintendent of the Juice Department. Davis referred her to Kight and Kight said, "We can't use you. You said you could be off three weeks without permission."

Kight denied that he refused to reemploy Mrs. Jones because she testified in the prior Board proceeding. He testified that Mrs. Jones reapplied for work in the fall, about a week or 10 days before the start of the 1945-1946 season and that he then told her that those who had been working when the plant closed during the prior season had preference in reemployment.³ He testified that four graders were employed at the close of the 1944-45 season and that there was no vacancy then or when Mrs. Jones applied for work. Mrs. Jones made no further application nor did the Respondent communicate with her, although she testified without contradiction that new graders were hired at the start of the season.

Kight testified that he could not recall meeting Mrs. Jones in Bartow on the three occasions when she testified she applied for work. He declared that that was not customary procedure and that if a person were to apply for work under such circumstances, he would tell him to apply at the plant. He also testified that he had never had any arguments with Mrs. Jones, had never discussed the Union with her, and that his relations with her had always been pleasant. He denied that he knew of her union membership and further denied that her testifying at the prior hearing, of which he claimed to know nothing, had anything to do with his decision not to reemploy her.

On cross-examination, Kight admitted that he had told an interviewer in discussing the failure to reemploy Mrs. Jones, "I can't say that I remember it I don't say she didn't come to me for a job. I just can't remember it. My wife was sick about then and I was about to go to the Army, and there was a lot happening. I don't remember a thing about it." He further testified:

³ There was no dispute as to the Respondent's practice in rehiring employees. Those who completed a season customarily returned to their old jobs at the beginning of the next season. Some made formal application, others just went to their regular post in the plant.

Kight denied that this practice extended to those employees under his supervision who quit before the end of a season and there was no affirmative proof of such a practice.

Q Didn't you tell Mr. Stout at this interview you had with him about Mrs. Jones, that you did not refuse to employ Mrs. Jones; that Mrs. Jones had been refused a job by someone else, and said, "I am just a hired hand, too, and I work under orders"

A. I don't remember.

However, he testified that he recalled those circumstances when he was testifying. As to the rate of personnel turn-over at the plant, Kight testified:

Q. What is the rate of turn-over at the juice operation during a season? Approximately 90%?

A. Yes, sir.

Q. And what is the rate of turn-over from one season to the next? 93½%?

A. I wouldn't say for sure, because I don't know.

Q. It is over 90%, isn't it?

A. Yes, sir.

The undersigned was not impressed by Kight's testimony as to the circumstances under which Mrs. Jones was refused reemployment. It was characterized chiefly by a failure to remember. He could not recall anything of the three conversations in Bartow which Mrs. Jones mentioned in her testimony. As to the final conversation at the plant, Kight admitted that prior to his testimony at the hearing he had made the statement that he could not recall what had happened on that occasion. He gave no convincing explanation why his memory should be better at a later time. Mrs. Jones' testimony was clear and detailed. Under all the circumstances, the undersigned credits Mrs. Jones' version of her conversations with Kight relative to her reemployment.

Both Roy Lewis, superintendent of the Sectionizing Department, and Mrs. Jones were in agreement that in July 1946 Lewis asked Mrs. Jones why she did not go to work in his department and Mrs. Jones replied that she would not do that work.

Conclusions

There is no dispute as to the fact that Mrs. Jones was on good terms with Kight. She was allowed to take as much time off as she needed and was not penalized when she returned to work.

Mrs. Jones voluntarily quit her job on April 24, 1945. No arrangement was then made for her to have the right to return to work and the undersigned finds that thereafter her status on reapplication became that of a new employee. The undersigned has rejected Kight's testimony that she reapplied for work approximately 2 weeks thereafter.

Mrs. Jones testified in the prior Board proceeding on October 23, 1945. Thereafter, she spoke to Kight with reference to securing reemployment. He gave her different reasons why he could not reemploy her and finally told her, "We can't use you. You said you could be off 3 weeks without permission." This statement clearly referred to the testimony that Mrs. Jones had just given in the prior Board proceeding.

The Respondent contends that an examination of the complete testimony of Mrs. Jones in the prior proceeding establishes that in fact it was favorable to the Respondent's position therein. Assuming, *arguendo*, that the Respondent's contention is correct, the basic issue herein is Kight's motive in refusing reemployment to Mrs. Jones. The credited testimony establishes the fact that he based his decision on Mrs. Jones' testimony. He may have been mistaken as to the over-all effect of her testimony, but that does not alter or affect the under-

lying bias behind his decision. Nor does the undenied testimony of Kight's supervisors that they had no bias against Mrs. Jones affect the finding herein, although it has been considered together with other surrounding circumstances. Kight admittedly had supervisory authority and had sole control of hiring the employees who would work under his supervision, approximately 22.

The Respondent further contends that since Mrs. Jones applied for work before the commencement of operations and since the custom existed of re-employing those who were employed at the close of the preceding season, there was no vacancy at the time Mrs. Jones made application. However, Kight testified that labor turn-over at the plant was very high—approximately 90 percent. Mrs. Jones applied either the day before the plant reopened, as she testified, or approximately a week before, according to Kight. Kight's refusal to rehire was unequivocal. The undersigned finds that Mrs. Jones reasonably concluded that she would not be rehired under any circumstances. At that time Kight did not know whether he would have any vacancies. It is equally true that he did not know whether all the graders previously employed would return to work. In fact, the history of labor turn-over at the plant tended to indicate that there would probably be a vacancy. Yet he disregarded Mrs. Jones' record of years of satisfactory service and closed the door to her reemployment for all time. Under these circumstances, the undersigned concludes that the argument of the Respondent does not constitute a valid defense.

In July 1946, Superintendent Lewis asked Mrs. Jones why she was not "sectionizing" for him. Mrs. Jones construed this statement as an offer of work and replied that she would not do that work. The refusal of Mrs. Jones to accept such employment does not affect her rights to the job of a grader, the position for which she applied to Kight.

The undersigned concludes that Mrs. Jones was denied reemployment by Kight because she gave testimony in a Board proceeding and that the action by Kight was in violation of the Act.

C. *The alleged unfair labor practices*

The complaint alleges that the Respondent refused to reemploy Mrs. Jones because she joined and assisted the Union and engaged in collective bargaining activities.

Mrs. Jones testified that she passed out union membership cards at the plant before the election held on February 20, 1945. There is no testimony that the respondent had any knowledge of this activity. Mrs. Jones testified that none of her supervisors expressed disapproval of the Union or, as far as she could tell, knew that she belonged to the Union. The undersigned will recommend that this portion of the complaint be dismissed.

The complaint further alleges that the Respondent from on or about October 23, 1945, through Supervisors Kight, Davis, and May expressed disapproval of the Union, threatened an employee because of her testimony at a Board hearing, and interfered with the conduct of proceedings before the Board.

This allegation was not substantiated by any affirmative evidence. Kight, Davis, and May expressly denied such activity. Mrs. Davis testified that no one expressed disapproval of the Union to her or threatened her because she testified. It will accordingly be recommended that this allegation be dismissed.

IV THE EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

The activities of the Respondent set forth in Section III, above, occurring in connection with the operations of the Respondent described in Section I, above,

have a close, intimate, and substantial relation to trade, traffic, and commerce among the several States, and such of them as have been found to be unfair labor practices tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

V. THE REMEDY

Since it has been found that the Respondent has engaged in unfair labor practices, the undersigned will recommend that it cease and desist therefrom and take certain affirmative action designed to effectuate the policies of the Act.

It has been found that the Respondent has discriminated in regard to the hire of Callie R. Jones. It will be recommended that the Respondent offer her immediate employment at her former or substantially equivalent position. It will be further recommended that the Respondent make her whole for any loss of pay she may have suffered by reason of such discrimination by payment to her of a sum of money equal to the amount she would have earned as wages from November 7, 1945, the date when operations for the 1945-46 season commenced, to the date of the Respondent's offer of employment less her net earnings⁴ during said period.

In the prior Board proceeding, the Board found that the Respondent discriminated against three employees and committed other violations of the Act. In the instant proceeding, it has been found that the Respondent has discriminated against Callie R. Jones because she testified in a Board proceeding. The undersigned finds that the entire course of conduct of the Respondent is indicative of persistent efforts to thwart the self-organization of its employees by various devices and that there exists danger of the continuation of such practices in the future. In order to effectuate the policies of the Act it will be recommended that the Respondent be ordered to cease and desist from in any manner infringing upon the rights guaranteed in Section 7 of the Act.

Upon the basis of the foregoing findings of fact and the entire record in the case, the undersigned makes the following:

CONCLUSIONS OF LAW

1. Food, Tobacco, Agricultural and Allied Workers Union of America, affiliated with the Congress of Industrial Organizations, is a labor organization within the meaning of Section 2 (5) of the Act.
2. By discriminating against Callie R. Jones because she gave testimony in a Board proceeding, the Respondent has violated Section 8 (4) of the Act.
3. By said discrimination, the Respondent has violated Section 8 (1) of the Act.
4. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2 (6) and (7) of the Act.
5. The Respondent did not, in violation of Section 8 (3) of the Act, discriminate against Callie R. Jones because of her union membership and activities.

⁴ *Matter of Crosscott Lumber Company*, 8 N. L. R. B. 440, 497-498. Inasmuch as the Respondent's business is of a seasonal nature, and the plant may not be in operation at the time the offer of employment is made, it is recommended that in such event the offer of employment to the said employee shall become effective with the commencement of the Respondent's next seasonal operations. In view of the seasonal nature of her employment, it will further be recommended that no back pay be paid to her for any period during which she would not normally have worked in the Respondent's plant, and that no deduction of earnings be made of any monies earned elsewhere during such period.

6. The Respondent by its supervisory officials has not, in violation of Section 8 (1) of the Act, expressed disapproval of the Union, threatened an employee because of her testimony at a Board hearing, or interfered with the conduct of Board proceedings.

RECOMMENDATIONS

Upon the basis of the above findings of fact and conclusions of law, the undersigned recommends that the Hills Brothers Company, Bartow, Florida, its agents, successors, and assigns shall:

1. Cease and desist from:

(a) Refusing to employ or otherwise discriminating against any person because he has given testimony under the Act;

(b) In any other manner interfering with, restraining, or coercing its employees in the exercise of their rights to self-organization, to form labor organizations, to join or assist Food, Tobacco, Agricultural and Allied Workers Union of America, affiliated with the Congress of Industrial Organizations, or any other labor organization, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection as guaranteed in Section 7 of the Act.

2. Take the following affirmative action which the undersigned finds will effectuate the policies of the Act:

(a) Offer Callie R. Jones immediate employment at her former or substantially equivalent position;

(b) Make whole Callie R. Jones in the manner set forth in "The remedy" for any loss she may have suffered by reason of the Respondent's discrimination against her;

(c) Post immediately, or if seasonal operations are not in progress, then immediately upon the resumption of such operations, at its plant at Bartow, Florida, copies of the notice attached hereto marked "Appendix A."⁵ Copies of said notice, to be furnished by the Regional Director for the Tenth Region, shall, after being duly signed by the Respondent's representative, be posted by the Respondent immediately upon the receipt thereof, and maintained by it for sixty (60) consecutive days thereafter, in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to insure that said notices are not altered, defaced, or covered by any other material;

(d) Notify the Regional Director for the Tenth Region in writing, within ten (10) days from the date of the receipt of this Intermediate Report, what steps the Respondent has taken to comply therewith;

(e) It is also recommended that unless on or before ten (10) days from the receipt of this Intermediate Report, the Respondent notifies said Regional Director in writing that it will comply with the foregoing recommendations, the National Labor Relations Board issue an order requiring the respondent to take the action aforesaid.

It is further recommended that the complaint, insofar as it alleges that the Respondent discriminated against Callie R. Jones because of her union membership and activities and expressed disapproval of the Union, threatened an employee because of her testimony at a Board proceeding, and interfered with the conduct of a Board proceeding, be dismissed.

As provided in Section 203.39 of the Rules and Regulations of the National Labor Relations Board, Series 4, effective September 11, 1946, any party or

⁵ *Matter of Central Minerals Company*, 59 N. L. R. B. 757.

counsel for the Board may, within fifteen (15) days from the date of service of the order transferring the case to the Board, pursuant to Section 203.38 of said Rules and Regulations, file with the Board, Rochambeau Building, Washington 25, D. C., an original and four copies of a statement in writing setting forth such exceptions to the Intermediate Report or to any other part of the record or proceeding (including rulings upon all motions or objections) as he relies upon, together with the original and four copies of a brief in support thereof; and any party or counsel for the Board may, within the same period, file an original and four copies of a brief in support of the Intermediate Report. Immediately upon the filing of such statement of exceptions and/or briefs, the party or council for the Board filing the same shall serve a copy thereof upon each of the other parties and shall file a copy with the Regional Director. Proof of service on the other parties of all papers filed with the Board shall be promptly made as required by Section 203.65. As further provided in said Section 203.39, should any party desire permission to argue orally before the Board, request therefor must be made in writing to the Board within ten (10) days from the date of service of the order transferring the case to the Board.

SIDNEY L. FEILER,
Hearing Examiner.

Dated August 5, 1947.

APPENDIX A

NOTICE TO ALL EMPLOYEES

Pursuant to the recommendations of a Hearing Examiner of the National Labor Relations Board, and in order to effectuate the policies of the National Labor Relations Act, we hereby notify our employees that:

WE WILL NOT in any manner interfere with, restrain, or coerce our employees in the exercise of their right to self-organization, to form labor organizations, to join or assist FOOD, TOBACCO, AGRICULTURAL AND ALLIED WORKERS UNION OF AMERICA, affiliated with CONGRESS OF INDUSTRIAL ORGANIZATIONS, or any other labor organization, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection. All our employees are free to become or remain members of this union, or any other labor organization.

WE WILL NOT refuse to employ any person or otherwise discriminate against him because he has given testimony in a proceeding under the National Labor Relations Act.

WE WILL OFFER to the employee named below immediate employment at her former or substantially equivalent position and make her whole for any loss of pay suffered as a result of the discrimination against her.

Callie R. Jones

THE HILLS BROTHERS COMPANY,
Employer.

Dated _____ By _____
(Representative) (Title)

This notice must remain posted for 60 days from the date hereof, and must not be altered, defaced, or covered by any other material.