

CLEVELAND DECALS, INC. and JEANNE PHILLIPS, PETITIONER and BROTHERHOOD OF PAINTERS, DECORATORS AND PAPERHANGERS OF AMERICA, SIGN, DISPLAY AND PICTORIAL LOCAL UNION 639, AFL. Case No. 8-RD-67. June 16, 1952

Decision and Order

Upon a petition for decertification duly filed, a hearing was held before Bernard Ness, hearing officer. The hearing officers' rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Pursuant to the provisions of Section 3 (b) of the National Labor Relations Act, the Board has delegated its powers in connection with this case to a three-member panel [Members Houston, Styles, and Peterson].

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the National Labor Relations Act.

2. The Petitioner asserts that the Union no longer represents employees of the Employer.

3. Following certification of the Union on July 19, 1950, as bargaining representative of the Employer's employees, a contract was entered into with the Employer effective until March 30, 1952, and containing a 60-day automatic renewal clause. Beginning in November 1951, no union membership dues were paid and no grievances were processed under the contract. In October or November 1951, the business agent of the Union informed the employees and the Employer that a new business agent named Jones was going to represent the employees. Neither the Union nor the Employer requested renewal or renegotiation of the contract before the January 30, 1952, automatic renewal date. The petition herein was filed on March 3, 1952. Thereafter Jones, who was the business agent of Local 1747, a sister local of the Union, informed the Employer that the Union had ceded jurisdiction as bargaining representative to Local 1747. The Employer declined to recognize Local 1747. Jones also informed the employees of the transfer of jurisdiction and of the failure of Local 639 to fulfill the contract. The employees protested the transfer on the ground that they had not been consulted. Although served with notice, the Union did not appear at the hearing nor did Local 1747. After the hearing, in a letter to the Regional Director of the Board, the Union stated:

. . . Local 639, wish to be recorded as withdrawn [sic] any claim to represent the Employees of Cleveland Decals Inc. . . .

The International Brotherhood of Painters of which we are

affiliated has set up a new local for Screen Process workers Local 1747 and, [Mr. Warren Jones] represents those who have transferred to that local.

The Employer and the Petitioner assert that neither the Union nor Local 1747 represents a majority of the employees herein.

It is clear that as the Union is not now a functioning bargaining agent for the employees concerned, the contract is not a bar.¹ Moreover, the Union's unequivocal disclaimer of interest in the Employer's employees cancels whatever vitality its certificate as bargaining representative might otherwise possess.² Nor is Local 1747 the successor in interest to the contract or to the certification, as the purported transfer of bargaining authority to it from the Union was accomplished neither at the behest nor with the consent of the employees of the Employer.³

Accordingly, we find that as there is no certified or recognized bargaining representative at present, no question affecting commerce exists concerning the representation of employees of the Employer, within the meaning of Section 9 (c) (1) (A) (ii) and Section 2 (6) and (7) of the Act, and we shall therefore dismiss the petition.

Order

IT IS HEREBY ORDERED that the petition filed by Jeanne Phillips for decertification of Brotherhood of Painters, Decorators and Paperhangers of America, Sign, Display and Pictorial Local Union 639, AFL, as bargaining representative of employees of Cleveland Decals, Inc., Cleveland, Ohio, be, and it hereby is, dismissed.

¹ *Southern Union Gas Company*, 93 NLRB 736.

² *Central Optical Co. Inc.*, 88 NLRB 567.

³ *Cf. Cadillac Automobile Company of Boston*, 90 NLRB 460

WESTERN ELECTRIC COMPANY, INCORPORATED *and* INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL, PETITIONER. *Case No. 34-RC-382. June 16, 1952*

Decision and Order

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Bernard L. Balicer, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Pursuant to the provisions of Section 3 (b) of the Act, the Board has delegated its powers in connection with this case to a three-member panel [Members Houston, Styles, and Peterson].