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AMERICAN & EFIRD MILLS, INC. *and* INTERNATIONAL LADIES' GARMENT WORKERS' UNION, AFL, PETITIONER. *Case No. 9-RC-1696. January 7, 1953*

Supplemental Decision and Direction

Pursuant to a Decision and Direction of Election¹ issued by the Board on September 24, 1952, an election by secret ballot was conducted on October 14, 1952, under the direction and supervision of the Regional Director for the Ninth Region. Upon completion of the election, the parties were furnished with a tally of ballots, showing that there were approximately 165 eligible voters, that 148 cast valid ballots, of which 79 were for the Petitioner and 69 were against the Petitioner. There were 47 challenged ballots, a number sufficient to affect the results of the election.

Thereafter, the Regional Director investigated the issues raised by the challenges. On November 20, 1952, he issued a report on challenged ballots and on November 25, 1952, a supplement to report on challenged ballots.² He recommended that the challenge to the ballot of James F. Black be sustained, that the challenge to the ballot of Lillian Overstreet be overruled, and that a hearing be ordered to resolve certain issues of fact for the determination of the remaining 45 challenges. No exceptions were filed to the Regional Director's report.

On December 5, 1952, the Petitioner moved the Board for permission to amend its position on challenged ballots. For the purpose of this proceeding and in order to dispense with a hearing, the Petitioner withdrew its challenges to 9 of the challenged ballots and agreed that the 36 challenges made by the Employer should be sustained.³ By reason of the agreement of the parties concerning these ballots,⁴ we sustain the 36 challenges entered by the Employer, and we shall

¹ Not reported in printed volumes of Board decisions

² The supplement to report on challenged ballots amended the report on challenged ballots to correct an error in the conclusions and recommendations.

³ In its motion the Petitioner requested immediate certification, contending that these 9 ballots are not sufficient in number to affect the result of the election in which the Petitioner has already received a majority of 10 votes. In view of our decision that an additional challenge must be overruled, a total of 10 ballots will be opened and counted. Because these 10 ballots are sufficient in number to affect the result of the election, we deny the Petitioner's request for immediate certification.

⁴ The Regional Director recommended no specific disposition of these challenged ballots, recommending instead that a hearing be ordered to secure evidence upon which to decide certain issues of fact.

direct the Regional Director to open and count the 9 ballots⁵ with respect to which the Petitioner has withdrawn its challenges.

There remain the ballots of James F. Black and Lillian Overstreet which were challenged by the Board agent because the voters' names did not appear on the eligibility list. The Regional Director, in his report on challenged ballots, recommended that the challenge to the ballot of James F. Black be sustained and that the challenge to the ballot of Lillian Overstreet be overruled.⁶ As indicated above, no exceptions were filed to these recommendations. In keeping with customary Board practice, we shall adopt the recommendations made by the Regional Director; the challenge to the ballot of James F. Black is sustained and the challenge to the ballot of Lillian Overstreet is overruled. We shall direct that the latter ballot be opened and counted.

Direction

IT IS HEREBY DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with the Employer, the Regional Director for the Ninth Region shall, within ten (10) days from the date of this Direction, open and count the ballots of Vaught Disponett, Willard Mitchell, Herk Caruthers, Emmett Robinson, Floyd Hawkins, Edwin Hyatt, Bertha Medley, Vernon Hostetter, Ed Wilson, and Lillian Overstreet; and thereafter prepare and cause to be served upon the parties a supplemental tally of ballots, including therein the count of the ballots described above.

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

⁵ These ballots were cast by the employees, except for Lillian Overstreet, listed in the direction below.

⁶ The Regional Director found that James F. Black had been discharged and was no longer an employee of the Employer. He found that Lillian Overstreet was on authorized leave-of-absence at the time of the election and therefore eligible to vote.

COOLEY SONS CO. *and* UNITED AUTOMOBILE WORKERS OF AMERICA, AFL,
PETITIONER. *Case No. 13-RC-2960. January 7, 1953*

Decision and Direction of Election

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Frances P. Dom, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.¹

¹ The hearing officer referred to the Board the Employer's motions to dismiss the petition because (1) there was no proof of showing of interest and (2) no demand or refusal of