

tract of September 18, 1950, between the Intervenor and the Employer one of unreasonable duration.⁴ Accordingly, we shall dismiss the petition which was filed more than 2 years before the expiration date of the existing contract.⁵

[The Board dismissed the petition.]

⁴General Motors (Milwaukee Plant), A. C. Spark Plug Division, 102 NLRB 1139; Allis Chalmers Manufacturing Company (West Allis Plant), 102 NLRB 1135; and General Motors Corporation, Detroit Transmission Division, 102 NLRB 1140

⁵In view of this disposition of the case, we need not pass upon the appropriateness of the unit request of the Petitioner.

HAMMERMILL PAPER COMPANY, INC. *and* REGINALD C. PERRY, Petitioner *and* INTERNATIONAL BROTHERHOOD OF PAPERMAKERS, AFL. Case No. 6-RD-86. May 29, 1953

DECISION AND ORDER

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

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].

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

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

2. The Petitioner, an employee of the Employer, asserts that the Union, which is being currently recognized by the Employer as the bargaining representative of the employees designated in the petition, is no longer the representative as defined in Section 9 (a) of the Act.

3. The Union contends that the petition herein should be dismissed because the Petitioner is acting as a "front" for District 50, United Mine Workers of America, hereinafter referred to as UMW, a noncomplying labor organization. Local Union No. 12,560 of the UMW had been the bargaining representative of the Employer's employees until the Union won a Board election and was certified as the bargaining representative of these employees on April 26, 1951.² The Employer and the Union have a contract that expires on June 1, 1953.

¹At the hearing, the Union moved to dismiss the petition on the ground that no showing had been made by the Petitioner that a substantial number of employees desired decertification. Showing of interest in a decertification case, as in a certification case, is an administrative matter not litigable by the parties. This motion is therefore denied. Suburban Propane Gas Corporation (Shorgas Division), 86 NLRB 1232.

²Case No. 6-RC-714, not reported in printed volumes of Board decisions

The Petitioner, Perry, had been president of Local Union No. 12,560, for 5 years, but was expelled for 99 years and life because he was largely responsible for bringing about the employees' disaffection from the UMW and affiliation with the Union.

At the time Perry initiated these proceedings, Mike Smijon, identified by witnesses as the district representative of the UMW, was attempting to organize the employees for the UMW. Perry testified that he obtained a supply of mimeographed decertification petition forms from his attorney, and that he did not circulate any petitions himself, nor obtain any signatures thereon, but had this done by committeemen who were not identified. These forms were identical with the mimeographed forms that Smijon had given to employees to circulate except that a typewritten sentence had been added to the forms used by Perry stating that "We authorize Reginald C. Perry, a fellow employee, to file a petition with the NLRB for an election."

The record shows that Smijon visited employees at their homes to solicit their signatures to a decertification petition, and that he offered money, liquor, and the use of his car to employees to sign or to circulate this petition. Smijon told one employee that the purpose of the petition "was to get 30 percent or more so we can have an election," and told another employee that "we will use force for the company to recognize us."

Three witnesses testified as to various occasions on which they had observed Perry and Smijon together engaged in conversation. Another witness, Allan Craig, stated that he was with Perry when they walked out of the plant, that they talked to Smijon, and that both Perry and Craig received petition forms from Smijon although Craig did not see the language on the forms given to Perry. Although Perry testified that he knew Smijon only by sight, he admitted conversing with him in front of the plant on one occasion, although he denied that their conversation dealt with decertification of the Union.

Under all the circumstances of this case, we find that Perry was in fact acting on behalf of a noncomplying labor organization, and we shall therefore dismiss the petition.³

[The Board dismissed the petition.]

³See Timm Industries, Inc., 104 NLRB 359; Knife River Coal Mining Company, 91 NLRB 176.

FARRINGTON MANUFACTURING COMPANY *and* LODGE 860,
DISTRICT 38, INTERNATIONAL ASSOCIATION OF MA-
CHINISTS, AFL, Petitioner. Case No. 1-RC-3122. May 29,
1953

DECISION AND ORDER

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before George A.