

"struck work" provisions in their collective bargaining contracts, or from honoring these provisions. That is all that happened in this case. We therefore find that the Respondent did not violate Section 8 (b) (4) (A) of the Act by causing employees of Palmer Lines, Central Warehouse, and Oppenheimer & McEwan to exercise their contractual privilege of declining to handle Conway freight [Footnotes omitted.]

This holding, affirmed in the circuit court of appeals, is equally applicable here. Therefore, as the undersigned has found that the Union did not induce or encourage the employees and further than the "unfair goods" clause also provides the Union here with a defense to a charge of violating Section 8 (b) (4) (A), he will recommend that this complaint be dismissed.⁶

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

CONCLUSIONS OF LAW

1. Pittsburgh Plate Glass Company is, and the motor freight carriers listed in Appendix A attached hereto are, engaged in commerce within the meaning of Section 2 (6) and (7) of the Act.

2. Chauffeurs, Teamsters, Warehousemen and Helpers Local Union No. 135, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, AFL, is a labor organization within the meaning of Section 2 (5) of the Act.

3. The aforesaid Local 135 has not engaged in unfair labor practices within the meaning of the Act.

[Recommendations omitted from publication.]

⁶Local 135 introduced evidence at the hearing to the effect that, when Pittsburgh and Local 716 settled their difficulty in September 1952 resulting in the withdrawal of the picket line with the acceptance of the association contract by Pittsburgh, all cases between Pittsburgh and the Union Locals were supposed to be settled or withdrawn. In view of the undersigned's findings on the merits, he sees no necessity for passing upon this contention of Local 135.

APPENDIX A

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|---|-------------------------------------|
| 1. Allen Truck Lines | 12. Interstate Motor Freight System |
| 2. Anderson Freight Lines | 13. Keeshin Motor Express Company |
| 3. B. B. & L. Motor Freight, Inc. | 14. Lucas Motor Express, Inc. |
| 4. Bowser Truck Lines, Inc. | 15. Marion Trucking Company |
| 5. Clemans Truck Lines, Inc. | 16. Mid-States Freight Line |
| 6. Commercial Motor Freight Lines, Inc. | 17. Motor Express, Inc. |
| 7. C. & D. Motor Delivery | 18. McDaniel Freight Lines, Inc. |
| 8. Eastern Motor Freight Company | 19. National Carloading |
| 9. Hayes Freight Lines | 20. Security Cartage Company |
| 10. I. R. C. & D. Motor Freight, Inc. | 21. Tarbet Trucking Company |
| 11. Indianapolis & Southern Motor Express, Inc. | |

WESTERN LACE AND LINE CO., d/b/a WESTERN FISHING LINES CO. and TEXTILE WORKERS UNION OF AMERICA, CIO. Case No. 21-CA-1504. June 25, 1953

DECISION AND ORDER

Upon a charge duly filed on August 25, 1952, and an amended charge duly filed on September 3, 1952, by the Textile Workers Union of America, CIO, herein called the Union, the General Counsel of the National Labor Relations Board, herein called the General Counsel, by the Regional Director for the Twenty-

first Region (Los Angeles, California), issued a complaint dated February 9, 1953, against Western Lace & Line Co., d/b/a Western Fishing Lines Co., herein called the Respondent, alleging that the Respondent had engaged in and was engaging in certain unfair labor practices affecting commerce within the meaning of Section 8 (a) (1), (3), and (4) and Section 2 (6) and (7) of the National Labor Relations Act, as amended (61 Stat. 136), herein called the Act. Copies of the charges, complaint, and notice of hearing were duly served upon the Respondent and the Union.

With respect to the unfair labor practices, the complaint alleged, in substance, that the Respondent discharged Mary Gabrish on or about August 19, 1952, and Dorothy Gingery on or about October 7, 1952, and refused to reemploy them despite their repeated applications for reemployment, because they had engaged in concerted activities for the purpose of collective bargaining and other mutual aid and protection and because they had testified, under the Act, in a previous proceeding before the Board.¹

The Respondent duly filed its answer on February 19, 1953, denying that it had engaged in any of the unfair labor practices alleged.

Pursuant to notice, a hearing was held at Los Angeles, California, on March 30 and 31, 1953, before Maurice M. Miller, the Trial Examiner duly designated by the Chief Trial Examiner. The General Counsel and Respondent were represented by counsel; the Union by a business representative. All parties participated in the hearing and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues.

At the hearing certain general motions to strike testimony were made on behalf of the Respondent which motions were denied by the Trial Examiner. With the consent of all the parties, the Trial Examiner issued his Intermediate Report by delivering it orally to the parties before the close of the hearing. It is to be found at pages 138-166 of the transcript of the hearing in this case, and finds that the Respondent did not discharge or thereafter refuse reemployment to Mary Gabrish or Dorothy Gingery for any reason proscribed by the Act, and thus recommended that the complaint be dismissed in its entirety. Thereafter the General Counsel filed exceptions to the Intermediate Report and a brief in support thereof.

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

The Board has reviewed the rulings made by the Trial Examiner at the hearing and finds that no prejudicial error was committed. The rulings are hereby affirmed. The Board has considered the Intermediate Report, the General Counsel's exceptions and brief, and the entire record in this proceeding,

¹ Western Fishing Lines Co., 103 NLRB 1408

and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

2. Textile Workers Union of America, CIO, is a labor organization admitting to membership employees of the Respondent.

3. Upon a consideration of the entire record,² the Board in agreement with the Trial Examiner finds that the evidence here, though raising a strong suspicion of discriminatory motivation,³ fails to constitute the preponderance necessary to establish that the Respondent was illegally motivated in terminating the employment of and in refusing to reemploy Mary Gabrish and Dorothy Gingery. We shall therefore dismiss the complaint in its entirety.

[The Board dismissed the complaint.]

²In reaching its conclusions herein, the Board has taken administrative notice of its Decision and Order in Western Fishing Lines Co., 103 NLRB 1408, in which the Respondent was found to have engaged in conduct violative of Section 8 (a) (1), (2), and (3) of the Act. Accordingly, the motion of the General Counsel to remand the instant case to the Trial Examiner for such purpose is denied. See Mission Oil Company, 93 NLRB 1215.

³The Board has held that suspicion alone is not sufficient evidence on which to base a finding of illegal discrimination. Strachan Shipping Company, 87 NLRB 431.

McALLISTER TRANSFER, INC., Petitioner *and* INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA, GENERAL DRIVERS AND HELPERS LOCAL NO. 554, AFL, AND INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA, CHAUFFEURS, TEAMSTERS AND HELPERS LOCAL NO. 608, AFL, AND INTERNATIONAL BROTHERHOOD OF TEAMSTERS CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA, TRUCK DRIVERS AND HELPERS LOCAL NO. 784, AFL. Case No. 17-RM-70. June 25, 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 Martin Sacks, 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