

WORTHINGTON CORPORATION *and* INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL, Petitioner. Case No. 6-RC-1196. August 19, 1953

SUPPLEMENTAL DECISION AND ORDER

On April 24, 1953, pursuant to a Decision and Direction of Election and Order issued by the Board, an election by secret ballot among the employees of the Employer, in the unit found appropriate, was conducted under the direction and supervision of the Acting Regional Director for the Sixth Region, the results of which were inconclusive. On May 11, 1953, a runoff election was held. The tally of ballots showed that of 12 votes cast, 5 were for the Petitioner and 7 against. On May 13, 1953, the Petitioner filed objections to the election. After investigating the aforesaid objections, the Acting Regional Director, on July 2, 1953, issued his report on objections. In his report, he found, *inter alia*, that the conduct of a supervisor of the Employer had interfered with the free choice of the employees in the election, and recommended that it be set aside. On July 13, 1953, the Employer filed exceptions to the report.

The Board¹ has carefully considered the Acting Regional Director's report and the Employer's exceptions, and finds no merit in the latter.

The Acting Regional Director found, *inter alia*, that a supervisor had informed the employees between the dates of the first and second elections that the plant manager had stated that many employees would be laid off if the Petitioner won the runoff election, and that the supervisor had asserted to employees during this period that the plant manager could lay off employees, depending upon the outcome of the election. The Acting Regional Director found that these statements were threats of reprisal and, as such, improperly interfered with the employees' exercise of a free choice of bargaining representatives.

The Employer, in its exceptions, did not deny that the supervisor had made the statements attributed to him. It merely denied that the statements were threatening or coercive, citing the Acting Regional Director's finding that the supervisor had "discussed things openly" with the employees. The Employer contends that this "finding of open and friendly discussion precludes a finding of threat or coercion." However, the Employer does not contend that the supervisor in the course of these discussions gave the employees any reason to believe that the Employer would not carry out the threat of layoffs if the Petitioner won. The mere fact that the discussions were friendly does not mitigate the coercive character of the threat.

¹Pursuant 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 [Chairman Farmer and Members Styles and Peterson].

On the basis of the foregoing undisputed findings, we conclude, as did the Acting Regional Director, that the Employer engaged in interference, restraint, and coercion of its employees in the exercise of their free choice of a bargaining representative, and shall order that the election of May 11, 1953, be set aside.² We shall direct the Acting Regional Director to conduct a new election at such time as he deems appropriate.

ORDER

IT IS HEREBY ORDERED that the election of May 11, 1953, be, and it hereby is, set aside; and

IT IS FURTHER ORDERED that this proceeding be remanded to the Acting Regional Director for the Region in which this case was heard for the purpose of conducting a new election at such time as he deems the circumstances permit a free choice of a bargaining representative.

²In view of our decision herein, it is unnecessary to consider the Petitioner's other objections to the election.

COWLES PUBLISHING COMPANY *and* THOMAS P. HOWARD *and* THOMAS P. HOWARD, ERNEST P. CAGLE, FRANK CASTAGNA, ORVAL DEAN, JAMES DRIES, C. EDWIN ELKINS, CLAYTON ELLIS, GEORGE GRADER, HAROLD J. HIMMELSBACH, JAMES S. HOGAN, PHILLIP M. O'NEILL, JOSEPH PEDERSEN, W. STANLEY RIDDLE, JR., ORVIN TJOSTOLVSON, GEORGE WEBER, GEORGE PETERSON. Cases Nos. 19-CA-729, 19-CA-762, 19-CA-762-1, 19-CA-762-2, 19-CA-762-3, 19-CA-762-4, 19-CA-762-5, 19-CA-762-6, 19-CA-762-7, 19-CA-762-8, 19-CA-762-9, 19-CA-762-10, 19-CA-762-11, 19-CA-762-12, 19-CA-762-13, 19-CA-762-14, and 19-CA-762-15. August 20, 1953

DECISION AND ORDER

On April 24, 1953, Trial Examiner Martin S. Bennett issued his Intermediate Report in the above-entitled proceeding, finding that 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. The Trial Examiner found further that Respondent had not engaged in certain other unfair labor practices alleged in the complaint and recommended dismissal of those allegations of the complaint. Thereafter, the General Counsel and Respondent filed exceptions to the Intermediate Report and supporting briefs.