

Accordingly, we find that the current contract is a bar to a present determination of representatives, and we shall grant the Employer's motion to dismiss the petition.

[The Board dismissed the petition.]

Member Murdock took no part in the consideration of the above Decision and Order.

SEAMPRUFE, INCORPORATED *and* INTERNATIONAL LADIES GARMENT WORKERS UNION, AFL. Case No. 16-CA-39. September 22, 1953

SECOND SUPPLEMENTAL DECISION, ORDER, AND DETERMINATION

On March 19, 1953, the Board issued a Supplemental Decision and Determination¹ in the above case, awarding back pay to Edna Clendenon. Upon reconsideration, the Board has determined that Clendenon is not entitled to any back pay, for the following reasons:

The pertinent facts relating to Clendenon's efforts to obtain employment after her discriminatory discharge on January 3, 1948, are set forth in the aforesaid Supplemental Decision and Determination. There is no dispute as to these facts, as they are based on a stipulation in the record.

The applicable legal principles are correctly set forth in that Supplemental Decision as follows:

The Board has held that an employee's claim for back pay may be defeated by proof by the employer that during the period for which back pay is claimed the employee failed to make a reasonable search for employment.

As Clendenon failed to register with the United States Employment Service, it is necessary for the Board to determine in view of the facts set forth above whether the Respondent has established that she failed to make a reasonable effort to obtain employment in McAlester substantially equivalent to her most recent employment with the Respondent.

The record shows that during the period of 46 months between her discharge and reinstatement Clendenon made altogether only 6 applications for work at various establishments, at intervals ranging from 5 to 14 months. Prior to her discharge she had been employed by the Respondent, a garment manufacturer, as a machine operator and inspector-work, which, so far as appears from the record, did not require any high degree

¹103 NLRB 763. Member Peterson dissented.

of skill. Her rate of pay at the time of her discharge was 55 cents per hour. She was not justified therefore in limiting her search to work involving the use of any special skill. While she did not so limit her search altogether, but, in addition to her 3 applications at the only available garment factory, applied to a telephone company, a laundry, and a hospital, she made only 1 such application at each place over a period of nearly 4 years. Although she may have been warranted in not reapplying for the hospital job because of her lack of training for that work, no reason appears either for her failure to make additional applications at the laundry or telephone company, or for her failure, during the entire time that she was unemployed, to make other applications elsewhere.

Upon the entire record, we find, therefore, that Clendenon did not make a reasonable effort between January 3, 1948, and November 1, 1951, to find new employment and that she is not entitled to any back pay for that period.

ORDER

IT IS ORDERED that the Board's prior determination in this case that Clendenon is entitled to back pay in the sum of \$2,595.86 be, and it hereby is, set aside.

DETERMINATION

Upon the basis of this Supplemental Decision and the entire record in the case, the National Labor Relations Board hereby determines that Edna Clendenon is not entitled to any back pay under the terms of the decree of the United States Court of Appeals.

Member Murdock took no part in the consideration of the above Second Supplemental Decision, Order, and Determination.

PALM SPRINGS COMMUNITY TELEVISION CORPORATION
and INTERNATIONAL BROTHERHOOD OF ELECTRICAL
WORKERS, LOCAL 440, A. F. L. Case No. 21-RC-3180.
September 24, 1953

DECISION AND ORDER

Upon a petition duly filed, a hearing was held before a hearing officer of the National Labor Relations Board. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

The Employer contends that it is not engaged in commerce or in activities affecting commerce, and that it would not effectuate the policies of the Act to assert jurisdiction in this case. We find merit in this contention.