under him, but also uses independent judgment in exercising such authority. Moreover, Weller has the authority effectively to recommend the change of status of his crewmen. Accordingly, we find that Weller is a supervisor within the meaning of the Act,[2] and we hereby sustain the Employer's challenge to his ballot.

As the Petitioner failed to receive a majority of the valid ballots cast in the election, we shall certify the results of the election.

[The Board certified that a majority of the valid ballots was not cast for International Brotherhood of Electrical Workers, AFL, and that said labor organization is not the exclusive representative of the employees of the Employer in the appropriate unit.]

[2] See Jackson Electric Membership Corporation, 106 NLRB 1019.

SAGINAW HARDWARE COMPANY *and* LEO A. PIETRZAK, Petitioner *and* LOCAL NO. 10, OFFICE EMPLOYEES INTERNATIONAL UNION, AFL

SAGINAW HARDWARE COMPANY *and* MAXINE OSTERBECK, GWENN RUPP, FLORENCE SCHULER, Petitioners *and* LOCAL NO. 10, OFFICE EMPLOYEES INTERNATIONAL UNION, AFL. Cases Nos. 7-RD-166 and 7-RD-169. May 21, 1954

DECISION, ORDER, AND DIRECTION OF ELECTION

Upon petitions duly filed under Section 9 (c) of the National Labor Relations Act, a consolidated hearing was held before Robert Pisarski, hearing officer. At the hearing, the Union moved to dismiss the petitions on several grounds. For reasons stated infra, the motions are hereby denied. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

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

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

2. Petitioners, employees of the Employer, have filed petitions asserting that the Union, currently recognized by the Employer as the bargaining representative, is no longer a representative, as defined in Section 9 (a) of the Act, of the employees involved in this matter.

3. A question affecting commerce exists concerning the representation of employees of the Employer within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act.

The Union moved to dismiss the petition in Case No. 7-RD-166, contending that it had been withdrawn. The Union also moved to dismiss the petitions in both cases, Nos. 7-RD-166 and 7-RD-169, on the ground that an existing collective-bargaining contract is a bar to a present determination of representatives.

On March 1, 1953, the Union and the Employer entered into a collective-bargaining contract covering office employees, effective from March 1, 1953, to March 1, 1954, and renewable automatically for annual periods thereafter, unless either party gave written notice to terminate 60 days before any anniversary date. Neither contracting party gave such notice before March 1, 1954.

In a letter dated December 23, 1953, 11 of the Employer's 12 office employees informed the Union thay they desired to end their affiliation on the expiration of the current labor agreement. The same group also sent a letter to the Board's Regional Office requesting advice as to the procedure for decertifying the Union. The employees sent copies of both letters to the Employer. The Employer received the letters on December 28, 1953, before the automatic renewal date of the contract: A formal decertification petition signed by Leo A. Pietrzak was then filed with the Board's Regional Office on December 31, 1953. This is the petition in Case No. 7-RD-166. Shortly thereafter, on January 6, 1954, the Regional Director issued a notice of hearing, scheduling a hearing for January 18, 1954.

On January 9, 1954, before the scheduled hearing, Petitioner Pietrzak sent a telegram and a letter to the Regional Office requesting it to "cancel" the petition in Case No. 7-RD-166. On January 12 Pietrzak signed a formal withdrawal request. The Regional Director approved the withdrawal request on January 13, and notified Pietrzak by letter that the petition had been withdrawn without prejudice and the notice of hearing canceled.

The 11 employees, who had writen the original letter to the Regional Office on December 23, 1953, again wrote to the Regional Office on January 15, 1954, explaining that Pietrzak had acted on their behalf in signing the petition but that he had withdrawn the petition "without our knowledge or consent," and that they "would like to continue with our petition, as we would still like to be decertified from Local No. 10." On advice of the Regional Director, a committee of three signed a new petition. This is the petition in Case No. 7-RD-169, filed January 20, 1954.

On January 19, 1954, the Regional Director issued and served on all parties an order to show cause why approval of Pietrzak's withdrawal request should not be rescinded. After Pietrzak's answer was received, the Regional Director, on January 27, 1954, issued an order rescinding his approval of the withdrawal request and referring such request to the Board. The order stated that Pietrzak's answer to the show cause order "dis-

closes a conflict of testimony with regard to Pietrzak's authority to withdraw the petition in Case No. 7-RD-166, which, if known to the undersigned [Regional Director] on January 13, 1954, would have caused him to withhold approval of said withdrawal."

The principal issue is whether Petitioner Pietrzak requested withdrawal of the petition with the knowledge and consent of the office employees for whom he was acting. Petitioner Pietrzak and the Union claim that the action was taken with the approval of a majority of the employees. The office employees dispute this claim.

There are 12 office employees. Of the 12, 11 employees signed the original letters to the Union, the Board, and the Employer, expressing their desire to decertify the Union. The 12th employee, Pietrzak, signed the petition in Case No. 7-RD-166. Pietrzak, who was the union shop steward, testified that after filing the petition, he decided it was best to withdraw, informed the employees of his intention, and none disapproved his proposal. Nine of the employees, in addition to Pietrzak, testified at the hearing. The testimony of the nine is in substantial agreement that Pietrzak had not consulted with them as to whether he should withdraw the petition, and that none had ever told him to do so or had consented to his action. As soon as the employees were informed of Pietrzak's withdrawal action, they took immediate steps to reinstate the decertification petition.

On the basis of the record considered as a whole, we find that Pietrzak was not authorized by the employees for whom he acted as agent to request withdrawal of the petition in Case No. 7-RD-166. Accordingly, Pietrzak's request to withdraw such petition is hereby denied.

As the employees made a timely request for withdrawal of recognition from the Union and followed such request with the filing of a petition within 10 days thereafter,[1] we find that the existing contract is not a bar to a present determination of representatives.

In view of our denial of the withdrawal request in Case No. 7-RD-166, we shall dismiss the petition in Case No. 7-RD-169 as redundant.

4. The petition seeks an election in a unit of the Employer's office employees, as described in the Union's contract. The Employer is in agreement with the unit description. The Union declined to state its position on the unit. We find that the following employees at the Employer's Saginaw, Michigan, plant, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act:

All office employees including office clerk, billing clerks I and II, switchboard operator, assistant bookkeepers, typist

[1] General Electric X-Ray Corp., 67 NLRB 997; Kennedy Broadcasting Co., 96 NLRB 354.

shipping, typist office, stenographer, and pricers No. 1 and No. 2, but excluding all other employees and supervisors as defined in the Act.

[The Board dismissed the petition in Case No. 7-RD-169.]

[Text of Direction of Election [2] omitted from publication.]

[2] International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local Union No. 486, AFL, intervened only to protect its contract interest. The Teamsters' contract does not cover any of the employees here involved. We shall, therefore, not place the Teamsters' name on the ballot.

FAIRBANKS TRANSIT SYSTEM, INC. *and* TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS UNION, LOCAL NO. 183, AFL. Case No. 19-CA-777. May 24, 1954

DECISION AND ORDER

On October 14, 1953, Trial Examiner Maurice M. Miller issued his Intermediate Report in the above-entitled proceeding, finding that the 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. He also found that the Respondent had not engaged in certain other unfair labor practices alleged in the complaint and recommended dismissal of those allegations. Thereafter, the Respondent filed exceptions to the Intermediate Report and a supporting brief.

The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial error was committed. The rulings are hereby affirmed. The Board has considered the Intermediate Report, the exceptions and brief, and the entire record in this case, and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner.

At the outset of the hearing the Respondent moved for a continuance of the hearing, on the ground that it had not yet been served with a written bill of particulars on the complaint which the Trial Examiner had ordered prior to the hearing, and therefore had not been given a proper opportunity under the Board's Rules to file an answer to the complaint. The bill of particulars was then introduced in evidence. The Trial Examiner then denied the motion for a continuance, subject to the Respondent's right to plead suprise and renew its motion in the light of the General Counsel's proof. The Trial Examiner then invited and accepted an oral answer, and subsequently during the General Counsel's proof a written answer was offered by the Respondent and received. The Respondent did not renew its motion for a continuance of the hearing.