

WORLD PUBLISHING COMPANY *and* JAMES N. ROSSE, PETITIONER *and* INTERNATIONAL MAILERS UNION, OMAHA LOCAL No. 100. *Case No. 17-RD-88. July 23, 1954*

Decision and Order

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Harry Irwig, hearing officer. 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. The labor organization involved claims to represent employees of the Employer.

3. No question affecting commerce exists concerning the representation of the employees of the Employer within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act, for the following reasons:

The Union contends that this proceeding should be dismissed for the reason that the Petitioner, James N. Rosse, is in fact acting as a "front" for the International Typographical Union and its Omaha Local, No. 100, hereinafter referred to as the ITU, a labor organization not in compliance with the filing requirements of the Act. For the reasons hereafter set forth, we find merit in this contention.

Although the Petitioner and witnesses supporting the petition were consistent in their denials of any form of ITU assistance after early March of this year, the record shows the following significant facts: The Employer and the Union have had a contract covering the Employer's mail room employees since the Union's certification, following a consent election, in 1946. In early January a group of mail room employees, including the Petitioner and most of the signatories to the decertification petition, became dissatisfied with the efforts of the Union and thereupon solicited the efforts of ITU organizers. Having succeeded in obtaining about 21 or 22 signed membership cards from the approximately 29 employees in the unit, the ITU, about the first week in March, requested recognition as the bargaining representative for these employees. The Employer refused to bargain with the ITU because of its existing contract with the Union. The Petitioner was in the office of the president of the ITU Local, Albert Chaddock, when Chaddock received a call from the Employer announcing its refusal to recognize the ITU. Chaddock thereupon told the Petitioner that "*for the present at least, the ITU could not represent the mailers of the World-Herald.*"

Subsequent to the Employer's refusal to grant recognition, employees Travnicek and Vomacka, who were signatories to the decertification petition, collaborated on a letter to the Board's Regional Director, in which they inquired as to what could be done about the matter. The Regional Director replying by letter dated March 22, 1954, mentioned the possibility of a decertification petition, and also noted that the ITU could not be certified since it was not in compliance.

The Petitioner, who had learned of this correspondence, shortly thereafter posted a sign announcing a meeting of the mail room employees. The meeting was held on March 28. At the meeting the Petitioner and Richard Kieley, who was a signatory to the decertification petition, were designated to act "with regard to the group interests." The date of this meeting coincided with the regular monthly meeting date of the ITU; the meeting was held, on the invitation of the ITU, in the hotel room where the ITU customarily holds its meetings; directly thereafter, on the same day, the ITU held its regular monthly meeting in this room; and finally, no payment was made to the ITU or the hotel for the use of the room. The ITU meeting on this day was also attended by the Petitioner. By the next day, March 29, the Petitioner had composed a letter to the Regional Office, containing the signatures of 16 employees in the unit, informing the Board that they wanted the Union decertified. The letter was not mailed. However, on March 30, the Petitioner, along with Travnicek and Vomacka, met a Board field examiner and with her assistance filed the decertification petition herein, attaching the Petitioner's letter.

Five employees, one of whom testified for the Petitioner and was a signatory to the decertification petition, met in the office of the ITU Local's secretary, James Pugh, about 15 minutes before the opening of the hearing herein. The record does not indicate what was discussed. Pugh was present throughout the hearings and when questioned about the ITU's intentions testified, in substance, that the ITU at present had no concrete plans for the employees but might be interested in them in the future.

The Petitioner and four other supporters of the petition on February 21, 1954, took the so-called "Obligation to Membership" of the ITU. This is a step away from signing the membership obligation, needing only the additional processing of the International for full membership. The Petitioner has never withdrawn this pledge. He testified, however, that he is not a member of the ITU and neither the application nor the obligation has ever been processed. Other witnesses who supported the decertification petition testified similarly with respect to their membership applications.

The Petitioner, and witnesses called by him, testified, in substance, that they lost interest in the ITU after they learned, *in early March*,

that the ITU's compliance status prevented it from dealing effectively with the Employer. However, the Petitioner also testified that he knew in January 1954 that the ITU was barred from using the Board's processes. Moreover, the Petitioner also testified that he knew that he could not personally petition the Board if he were a member of the ITU. He also admitted that he "very possibly might have" made the statement, perhaps in March, that "according to the Taft-Hartley Act, 51 percent of the employees in a particular unit are supposed to be the bargaining agent and as such he was of the opinion that ITU should rightfully be the bargaining agent."

Vomacka testified that he wanted the ITU even though he knew it could not utilize the processes of the Board. He further testified that he "believes the group [supporting the decertification petition] has the majority, if we feel we want to go into the ITU, I can't see any other way"; that if the Union were decertified it was the group's thought that they still would like to be members of the ITU. In addition, Vomacka admitted that approximately 2 days before the hearing (April 16, 1954), which was after the decertification petition had been filed, he told employee Saum, who had remained loyal to the Union, "I think if you would come along with us and get into our membership with us, try to get into the ITU, this would all be over with."

Under all the above circumstances, we are convinced that the Petitioner was, in fact, acting on behalf of the representatives of the ITU, a noncomplying labor organization, when he filed the petition herein. Therefore, we shall grant the Union's motion to dismiss the decertification petition.¹

[The Board dismissed the petition.²]

¹ See *Bernson Silk Mills, Inc.*, 106 NLRB 826.

² The Union herein is also out of compliance with the filing requirements of the Act. We note, therefore, that our dismissal of the instant decertification petition is not tantamount to a recertification of this noncomplying Union.

NATIONAL FOUNDRY COMPANY OF NEW YORK, INC. and UNITED STEELWORKERS OF AMERICA, CIO, PETITIONER. *Case No. 2-RC-6420. July 23, 1954*

Decision and Order

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