

WHIRLPOOL CORPORATION *and* INTERNATIONAL ASSOCIATION OF MACHINISTS, AFL, PETITIONER. *Case No. 7-RC-2599. February 8, 1955*

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 Emil C. Farkas, 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 United Electrical, Radio and Machine Workers of America, hereinafter referred to as UE, was permitted to intervene on the basis of its current contract with the Employer. The International Union of Electrical, Radio and Machine Workers, CIO (IUE) was permitted to intervene on the ground of a proper showing of interest.

3. The UE contends that the existing contract effective November 19, 1953, to October 1, 1955, constitutes a bar to this proceeding. The Petitioner contends that because of a schism in the UE the contract is not a bar. The Employer is neutral on this issue.

As a result of a Board-conducted election,¹ in August 1953, the UE was certified as the bargaining representative for the employees involved herein. A contract was executed November 19, 1953, which will expire on October 1, 1955. The evidence shows that prior to the election, the Petitioner conducted its election campaign through its IAM committee for organization and that immediately after the election and certification of the UE, a subcommittee was organized, known as the IAM committee for disaffiliation, the purpose of which, as its name implies, was to bring about disaffiliation of the UE Local. Both committees became active in the disaffiliation movement. It appears undisputed in the record that representatives of the Petitioner aided and guided the disaffiliation movement by giving legal advice, by writing and publishing pamphlets, by contributing to the expenses of the campaign, and generally directing the movement.

Immediately following certification of the UE in December 1953, a small group of employees met in the home of one of their number to discuss disaffiliation because of the allegation that the Local was

¹ There were two elections in which the UE participated, as the first was inconclusive.

Communist dominated. A second meeting was held in March 1954, attended by some 15 employees, and a third in April at which there were discussed various methods whereby disaffiliation could be brought about. Through the efforts of the IAM committee for disaffiliation, leaflets were published and signed by officers of the Petitioner, which were circulated to the membership. In September 1953, some 20 of the dissident employees met, under the active leadership of the Petitioner, at which meeting it was decided to present a petition to the UE Local for the purpose of calling a special meeting to discuss disaffiliation. A subcommittee was created to arrange such a meeting for September 23, and notices for such meeting were published in the local press. Notices of the meeting were also published in leaflets signed by the IAM committee for disaffiliation published by the Petitioner at the latter's headquarters. At about the same time these arrangements were going on, the executive board of the Local declined to call the meeting as requested on the ground, as stated, that it was purely for the purpose of disrupting and dividing the employees presently represented by the UE.

The disaffiliation meeting called by the IAM committee for disaffiliation was held on September 23, 1954, and was attended by some 461 employees. The purpose of the meeting as stated by a spokesman for the disaffiliation committee was to disaffiliate from the UE (1) because of the latter's expulsion from the CIO in 1949 on the ground of its Communist-dominated character, (2) on the ground that the Local was itself Communist dominated, and (3) on the ground that a member of the Local had stated that a UE district president had at one time tried to recruit him into the Communist Party. Emphasis was also placed on the recently enacted Federal law under which rights of employees under the National Labor Relations Act might be endangered if they were members of a Communist-dominated union.

A motion was made and seconded that the Local disaffiliate from the UE. The vote, which was secret, showed that 450 were in favor of disaffiliation and 10 against. A motion was then made to affiliate with the Petitioner. The vote on this was by voice vote. Thereafter, a petition was circulated among the employees containing some 1,270 signatures in further support of the disaffiliation movement.

The evidence shows that the UE is continuing to function as an active representative of the employees. Grievances are being processed, checkoff continues, and meetings are regularly held with virtually the same officers. No one had brought up the question of disaffiliation at the UE's regular meetings and the Employer continues to recognize

and deal with the UE in its administration of the contract. However, because of the instant proceeding, the Employer has declined to continue negotiations on the reopened wage clause in the contract.

The evidence shows that the Local at the instant plant has some 2,500 members, that approximately 460 attended the special disaffiliation meeting called by the disaffiliation committee, that the largest number of employees present at special meetings held during 1953 was from 250 to 300 in number, and that at regular meetings, the attendance is from 35 to 60.

While there appears to be little doubt concerning the Petitioner's participation in the disaffiliation movement, it is also clear that the movement was motivated by the same causes which prompted the CIO to expel the International UE from membership in the parent organization. We have reviewed the facts here and we find that the conclusions reached by the Board in *Lawrence Leather*² are applicable herein. For reasons stated in that decision, we find that a schism exists in the instant case. We therefore find that the current contract is not a bar.³

We find that a question affecting commerce exists concerning the representation of the employees of the Employer within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

4. The appropriate unit :

The parties stipulated and we find that the following employees constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act :

All production and maintenance employees of the Employer's St. Joseph and Benton Harbor, Michigan, plants, including timekeepers and inventory checkers, but excluding supervisory employees, foremen, assistant foremen, chief timekeepers, assistant chief timekeepers, draftsmen, experimental employees, factory clerical employees, office clerical employees, professional employees, guards, maintenance electricians and maintenance electrician helpers, and all supervisors as defined in the Act.

[Text of Direction of Election omitted from publication.]

² *A. C. Lawrence Leather Company*, 108 NLRB 546 See also *Empire Zinc Division, The New Jersey Zinc Company*, 108 NLRB 1663; *General Electric Apparatus & Service Shop*, 110 NLRB 1054, *Continental Electric Co., Inc.*, 110 NLRB 1062.

³ Member Rodgers concurs in the direction of election herein, but finds it unnecessary to decide whether there has been a schism. Instead, he would refuse to recognize the contract of the Intervenor as a bar for reasons of broad public policy. The parent organization, the UE, had previously been expelled from the Congress of Industrial Organizations because of Communist domination. Under these circumstances the availability of the Board's processes to the Intervenor would not, in Member Rodgers' opinion, effectuate the policies of the Act nor properly serve the interests of national security.