

inclusion in a unit with nonprofessional employees. We shall therefore direct separate elections in the following voting groups in the unit:

- (a) All employees except pharmacists.
- (b) All pharmacists.

The employees in voting group (a) will be polled to determine whether or not they wish the Petitioner to represent them. The employees in voting group (b) will be asked two questions on their ballot: (1) Do you desire to be included, together with the nonprofessional employees in voting group (a), in a unit of all employees employed in the Employer's division 1 and 2 stores located in the greater Kansas City metropolitan area for the purposes of collective bargaining? (2) Do you desire to be represented for the purposes of collective bargaining by the Petitioner? If a majority of the professional employees in voting group (b) vote "Yes" to the first question, they will be included in such unit, which in that event we find to be appropriate. Their votes on the second question will then be counted together with the votes of the nonprofessional voting group (a) to decide the question of representation for the whole unit. If on the other hand a majority of the professional employees in voting group (b) vote against inclusion, we find voting groups (a) and (b) each constitute a separate appropriate unit. The votes of each voting group will then be separately counted to decide whether or not that group desires to be represented by the Petitioner.

5. In the earlier case we found the record insufficient to enable us to determine the voting eligibility of relief employees. The parties now stipulate, and we find, that relief employees should be eligible to vote if they have worked on 4 or more days during the month preceding the notice of elections. In all other respects we adhere to the eligibility standards of the earlier case.

[Text of Direction of Elections omitted from publication.]

Interboro Chevrolet Co., Inc. and John J. Robinson, Jr., Petitioner and Local 596, Garage, Parking and Service Station Employees' Union, International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, AFL and Local 724, District 1, International Association of Machinists, AFL.
Case No. 4-RD-142. July 12, 1955

SUPPLEMENTAL DECISION AND CERTIFICATION OF RESULTS OF ELECTION

Pursuant to a Decision and Direction of Election dated February 25, 1955,¹ an election by secret ballot was conducted on March 14, 1955,

¹ 111 NLRB 783.

113 NLRB No. 16.

under the direction of the Regional Director for the Fourth Region, among the employees of the Employer in the unit found appropriate by the Board. Thereafter, a tally of ballots was furnished the parties, showing that, of approximately 16 eligible voters, 14 voted against, and 1 voted for, the Unions.

On March 18, 1955, the Unions filed timely objections to the election. After an investigation, the Regional Director issued a report and recommendations on objections, in which he recommended that the objections be overruled. The Unions filed exceptions to the Regional Director's report.

In their exceptions, as in their objections, the Unions allege in substance that the election was improperly arranged and conducted for the reason that (a) no preelection conference was held, and (b) they were denied the right to check the eligibility list and to name an observer.

(a) The Regional Director recommended that the objection in this connection be overruled, stating that the Board's Rules and Regulations do not require the holding of preelection conferences and that none of the parties indicated the need or desire for such a conference. We agree with the Regional Director that the objection does not raise any substantial or material issue with respect to the election. The matter of holding preelection conferences is left to the Regional Director's discretion, which the Unions have not shown was abused to their prejudice in the instant matter. This objection is therefore overruled.

(b) In this connection the Regional Director found that the Unions were directly apprised of the opportunity to check the eligibility list and to name an observer for the election. The Unions, in their exceptions, dispute this finding. Even assuming, however, that the allegations made by the Unions are true, we find the objections to be without merit. By their own admission, the Unions were notified prior to March 4 that the election would be held on March 14. The notice of election in this case, a copy of which was served on the Unions' attorney,² specified the time and place, as well as the date, of the election and designated the eligibility payroll date in accordance with the direction contained in the Board's previous decision herein. The Unions do not appear to have requested an opportunity either to check the pertinent payroll prior to the election or to have an observer present at the election, nor was any such opportunity denied to them. There is no contention that any ineligible employee was included on the eligibility list or voted nor that the Board agent conducting the election improperly carried out his functions. Under all the circumstances, we

² It appears that the Regional Director's finding to this effect is not being contested by the Unions in their exceptions.

are of the opinion that the Unions' objections relating to their alleged lack of opportunity to check the eligibility list³ or have an observer at the election⁴ should be overruled as lacking in merit.

As we have overruled the Unions' objections, and as the Unions failed to receive a majority of the valid ballots cast, we shall certify the results of the election.

[The Board certified that a majority of the valid ballots was not cast for Local 596, Garage, Parking and Service Station Employees' Union, International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, AFL, and Local 724, District 1, International Association of Machinists, AFL, and that the said organizations are not the exclusive representative of the Employer's employees in the appropriate unit.]

MEMBER MURDOCK took no part in the consideration of the above Supplemental Decision and Certification of Results of Election.

³ Cf. *Gerber Products Company*, 95 NLRB 1300

⁴ The presence of observers at an election other than Board agents, is not required by the Act. *Sumplot Fertilizer Company*, 107 NLRB 1211, 1221.

Youngstown Tent and Awning Company, and/or Youngstown Tent and Awning Company, a Division of Wagner Awning and Manufacturing Company and United Steelworkers of America, CIO. Case No. 8-CA-1071. July 13, 1955

DECISION AND ORDER

On May 6, 1955, Trial Examiner Alba B. Martin 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. Thereafter, the Respondent filed exceptions to the Intermediate Report and a supporting brief.

The Board has reviewed the rulings of the Trial Examiner made at the hearing 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.¹

¹ We amend the Trial Examiner's conclusion of law number 3 to read as follows: United Steelworkers of America, CIO. was on December 2, 1954, and has been at all times material thereafter, the exclusive bargaining representative of the employees in the aforesaid appropriate unit in accordance with the provisions of Section 9 (a) of the Act