

**Adler Metal Products Corporation and District No. 9, International Association of Machinists, AFL, Petitioner. Case No. 14-RC-2730. September 23, 1955**

**SUPPLEMENTAL DECISION AND DIRECTION**

Pursuant to a Decision and Direction of Election<sup>1</sup> issued on April 28, 1955, in the above proceeding, an election by secret ballot was conducted on May 26, 1955, under the direction and supervision of the Regional Director for the Fourteenth Region, among the employees in the unit found appropriate by the Board. At the conclusion of the election, the parties were furnished with a tally of ballots which showed that, of approximately 20 eligible voters, 6 cast ballots, all of which were challenged.

Thereafter, the Employer filed timely objections to the conduct of the election and conduct affecting the results of the election. After investigation, the Regional Director, on July 21, 1955, issued his report on challenged ballots and objections to conduct of election, in which he found the objections to be without merit and recommended that they be overruled. As to the challenged ballots, the Regional Director recommended that the challenges as to employees Holmes, Moore, Thomas, and Cotton be overruled and that the challenges as to Collins and Jones be sustained. Thereafter, the Employer filed timely exceptions to the Regional Director's report.

The Employer filed its objections to the election on June 3, 1955. On June 6, 1955, the chief field examiner, by letter, requested specific information pertaining to employment records and detailed evidence to support the Employer's challenges and objections. On June 13, 1955, the Employer's attorney, by letter, replied to this request stating, in effect, that it was his understanding that, under Section 102.61 of the Board's Rules and Regulations, only a short statement of reasons was required in support of objections, and that therefore the Employer felt it had complied with the necessary requirements. On June 14, 1955, the chief law officer replied to this letter, pointing out that, while only a short statement of reasons is sufficient to serve as an objection, evidence in support of objections is required in the investigation of objections and that the burden is on the objecting party to produce all available evidence in support of the objections. At its close, this letter requested that the information specified in the June 6 letter be supplied by June 21, 1955. On June 18, 1955, the Employer's attorney replied, stating that he desired to be of every assistance to the Regional Director, but that the Employer felt that he was entitled to a hearing at which time he would present evidence necessary to support his objections and requested that a date for hearing be set.

<sup>1</sup> Not reported in printed volumes of Board Decisions and Orders.

The Regional Director found that the Employer, although twice requested to supply available information or evidence in support of its objections, persistently refused to furnish such evidence, and that the Employer took the position that it would produce such evidence only at a hearing. The Regional Director's investigation failed to disclose any evidence in support of the objections. Under these circumstances, he recommended that the objections be overruled.

In its exceptions, the Employer contends, *inter alia*, that the Regional Director's recommendations should be set aside because the Employer in its letter of June 18, did not refuse to furnish evidence nor did it state it would produce evidence only at a hearing.

We find no merit in these exceptions. Under the circumstances set forth above, we believe that the Regional Director was justified in concluding that the Employer would not furnish evidence in support of its objections. Moreover, we note that, in its exceptions, the Employer still fails to advert to any specific evidence in support of its objections and exceptions.

As we stated in our recent decision in *N. B. Liebman & Company, Inc.*:<sup>2</sup>

The Board has consistently held that a party filing objections to an election is obligated to furnish evidence in support of such objections, and that, unless such evidence is produced, the Regional Director is not required further to pursue his investigation of such objections.<sup>3</sup> Furthermore when, after investigation, exceptions are filed to the Regional Director's report on objections, the Board has held that it will overrule such objections unless the exceptions advert to specific, substantial evidence controverting the Regional Director's conclusions.<sup>4</sup>

<sup>3</sup> *Hincher Manufacturing Company*, 106 NLRB 1314.

<sup>4</sup> *Maiman Bag Company*, 103 NLRB 456.

Accordingly, we conclude that the Employer's objections and exceptions raise no substantial and material issues with respect to the election. In this connection, we note that, while we do not reach the merits of the Employer's objections, the Regional Director's investigation revealed no evidence to support the objections. Accordingly, the objections are hereby overruled.

The Employer challenged all six ballots cast at the election. The Regional Director found that Gilfort Holmes, Orlander Moore, Willey Thomas, and Charles E. Cotton were all employees who were working for the Employer during the eligibility period and at the time of the election. As to employee Cotton, he also found that the allegation that he was a member of the Petitioner, which the Employer contended disqualified him from voting, had no bearing upon

<sup>2</sup> 112 NLRB 88.

his right to vote. The Regional Director recommended that the challenges to the ballots of these employees be overruled. The Employer generally excepts to these findings and recommendations but adverts to no specific evidence in support of its exceptions.<sup>3</sup> Accordingly, we adopt the Regional Director's recommendation and overrule the challenges to the ballots of these four employees.<sup>4</sup>

As no exceptions were filed to the Regional Director's recommendations that challenges to the two other ballots cast by George Collins and John Jones be sustained, we sustain these challenges.

[The Board directed that the Regional Director for the Fourteenth Region shall, within ten (10) days from the date of this Direction, open and count the ballots of Gilfort Holmes, Orlander Moore, Willey Thomas, and Charles E. Cotton and serve upon the parties a supplemental tally of ballots.]

<sup>3</sup> Although the Employer excepted to the Regional Director's recommendation to overrule the challenge to the ballot of Collins, we assume that the Employer meant Cotton and not Collins, in view of the fact that the Regional Director recommended that the challenge to the ballot of Collins be sustained.

<sup>4</sup> *National Foundry Company of New York, Inc.*, 112 NLRB 1214. In connection with the challenge as to Cotton, we note that union membership has no bearing on an employee's eligibility to vote. A fundamental purpose of the Act is "protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing." (Section 1.)

**Pike Lumber Co., Inc. and International Union of Operating Engineers, Local No. 83, AFL, Petitioner.** *Case No. 19-RC-1672.*  
*September 23, 1955*

DECISION AND ORDER

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Patrick H. Walker, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Pursuant to the provisions of Section 3 (b) of the National Labor Relations Act, the Board has delegated its powers in connection with this case to a three-member panel [Acting Chairman Rodgers and Members Peterson and Leedom].

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

1. The Employer is engaged in commerce within the meaning of the National Labor Relations Act.
2. The labor organization involved claims to represent employees of the Employer.
3. No question affecting commerce exists concerning the representation of employees of the Employer within the meaning of Section 9