

supervisory status without regard to the necessity for frequent exercise of such power.³⁰ However, we have found that inspectors do not possess any "real" supervisory authority either in the rules or their application.

Under all the circumstances, we conclude that inspectors do not have the authority to suspend employees, nor do they possess any of the other indicia of supervisory authority set forth in Section 2 (11) of the Act. Accordingly, the Board respectfully submits to the court that there is no basis for reversing our earlier finding that Respondent has violated Section 8 (a) (5) and (a) (1) of the Act.

The Respondent's motion for further hearing is denied for the reasons previously stated in earlier portions of this proceeding when the Respondent made similar requests.³¹

[The Board denied the motion.]

ACTING CHAIRMAN RODGERS took no part in the consideration of the above Supplemental Decision, Determination, and Order.

³⁰ See footnote 10, *supra*. Also see *Leland-Gifford Company*, 200 F. 2d 620, 625 (C. A. 1).

³¹ Acting Chairman Rodgers would grant Respondent's motion for a further hearing and accordingly is not participating in the findings made in this decision.

A. Werman & Sons, Inc. and United Shoe Workers of America, CIO, Petitioner. *Case No. 1-RC-4023. October 21, 1955*

DECISION AND ORDER

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Thomas E. McDonald, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed. The Employer's motion to dismiss the petition on the ground that the Petitioner had made no demand for recognition nor claim of majority representation prior to filing the petition was referred to the Board. In view of our decision to dismiss the petition for other reasons, we find it unnecessary to consider this contention.

At the hearing the Employer alleged and offered to prove that the showing of interest made by the Petitioner was by use of undated cards secured over 2 years ago by misrepresentations, and that the Petitioner deceived the Board into assuming such cards were evidence of a current interest. Thus the Employer inferentially requested a dismissal of the petition on the basis of an inadequate showing of interest. The hearing officer properly declined to admit such evidence into the record on the ground that the Petitioner's showing of interest was an administrative matter and was not litigable by the parties.¹

¹ See *Morganton Full-Fashioned Hosiery Company*, 102 NLRB 134.

Subsequent to the hearing, the Employer filed with the Regional Director certain affidavits bearing on its offer of proof made at the hearing which was rejected by the hearing officer. The Regional Director caused an investigation to be made and in his report to the Board stated that none of the authorization cards submitted by the Petitioner are dated. For this reason alone, and without considering the Employer's other contentions, we are administratively satisfied that the Petitioner's showing of interest is inadequate. The Board requires that the showing of interest be current. Thus the petition form provided by the Board for seeking a certification of representatives provides that there must be submitted with the petition proof of interest in the form of dated authorization cards. Accordingly, we find that further proceedings are not warranted inasmuch as the evidence of interest submitted by the Petitioner, failing to meet the requirements of the Board, is insufficient. We shall therefore grant the request of the Employer and dismiss the petition.

[The Board dismissed the petition.]

Holmes & Barnes, Ltd. and General Truck Drivers, Warehousemen & Helpers, Local Union No. 5, International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, A. F. L., Petitioner. *Case No. 15-RC-1184. October 21, 1955*

DECISION AND CERTIFICATION OF REPRESENTATIVES

On November 19, 1954, pursuant to a stipulation for certification upon consent election, an election among the Employer's truckdrivers and warehousemen was held at Baton Rouge, Louisiana, under the direction and supervision of the Regional Director for the Fifteenth Region. The tally of ballots, which was served upon the parties, shows that of 26 eligible voters 15 votes were cast for the Petitioner, 11 were cast against, and 1 ballot of a voter not appearing on the eligibility list was challenged. On advice of counsel, the Employer's observer, after signing the certification that the election was fairly conducted, scratched out his name and refused to sign the tally.

Thereafter the Employer filed timely objections to the conduct of the election, the Petitioner filed a reply, and the Employer filed a supplemental memorandum of objections.

After investigation based upon the interview of many witnesses, the Regional Director on April 29, 1955, filed his report on objections, recommending that the objections be overruled and the Petitioner certified. The Employer thereupon filed exceptions to the report and a memorandum brief in support of its exceptions.