

Wilbur-Rogers, Inc.; The Wilbur-Rogers Cincinnati Corporation; The Wilbur-Rogers Atlanta Corporation and Retail Department Store Employees' Local 1594, Retail Clerks International Association, AFL-CIO, Petitioner. *Case No. 9-RC-3085. August 29, 1957*

SUPPLEMENTAL DECISION AND ORDER
DIRECTING HEARING

Pursuant to a Decision and Direction of Election dated June 18, 1957,¹ an election by secret ballot was conducted on July 8, 1957, by the Regional Director for the Ninth Region among the employees in the unit found appropriate by the Board. Following the election, a tally of ballots was furnished the parties which shows that of 19 valid votes cast, 10 were cast for the Petitioner, 9 votes were cast against the Petitioner, and 6 votes were challenged. As the challenged ballots were sufficient in number to affect the results of the election, the Regional Director, pursuant to Section 102.61 of the Board's Rules and Regulations conducted an investigation of the challenges, and on July 23, 1957, issued his report on challenged ballots in which he recommended that a hearing be held in order to resolve the conflicting positions and factual contentions of the parties with respect to the status of the challenged employees. On July 31, 1957, the Employer filed timely objections to the Regional Director's report.

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

The ballots of Genora Watts, Laverno Henke, Claire Rudloff, and Margaret McGee were challenged by the Petitioner on the ground that these are seasonal employees and the ballots of Louise Wiggins and Donna Bauer were challenged by Petitioner on the ground that they are casual employees. In the investigation, the Employer took the position that all these employees were hired on a permanent basis or on a regular part-time basis and that therefore the challenges to their ballots should be overruled. The Petitioner contended that they were hired for the summer months only and that they will be terminated in the fall.² The Regional Director therefore recommended that these conflicting positions can best be resolved at a hearing through the examination of witnesses and the presentation of evidence.

In its objections to the report, the Employer contends that the Regional Director should have made findings with respect to each

¹ Not reported in printed volumes of Board's Decisions and Orders.

² As the Direction of Election provided that seasonal and casual employees be excluded, the status of the challenged employees thus becomes a material issue.

ballot challenged rather than a general finding that the "Petitioner submitted some evidence which tends to support its position." Furthermore, that if such individual findings were made, it might have been possible for him to have recommended that some of the ballots be opened and thus avoid a long and expensive hearing on all the challenges. The Employer therefore requests that as to those ballots concerning which insufficient evidence was submitted, these should be opened, and that if the results thereafter are still undeterminative of the election, a hearing be held on the remainder of the challenges.

We find no merit in the Employer's position. We believe that the Regional Director's statement quoted above is obviously intended to mean that Petitioner submitted evidence with respect to each of the employees, and that a hearing is necessary to resolve the dispute as to the facts in order for the Board to make a finding as to the status of the foregoing employees.³

Accordingly,

IT IS HEREBY ORDERED that a hearing be held before a Trial Examiner, to be designated by the Chief Trial Examiner for the purpose of determining the eligibility of Genora Watts, Laverne Henke, Claire Rudloff, Margaret McGee, Louise Wiggins, and Donna Bauer to vote in the election, and that the Trial Examiner serve upon the parties a report containing resolutions of the credibility of witnesses, findings of fact, and recommendations to the Board as to the disposition of said challenges. Within ten (10) days from the date of the issuance of the report, any party may file with the Board in Washington, D. C., an original and six copies of exceptions. The party filing shall serve a copy upon each of the other parties, and file a copy with the Regional Director. If no exceptions are filed, the Board will adopt the Trial Examiner's recommendations.

[The Board further ordered the above-entitled matter referred to the Regional Director for arrangement of hearing, and issuance of notice.]

³ *Graphic Arts Finishers, Inc.*, 118 NLRB 852.

**Olson Rug Company and Textile Workers Union of America,
AFL-CIO, Petitioner. Case No. 13-RC-5369. August 29, 1957**

**SUPPLEMENTAL DECISION AND CERTIFICATION
OF REPRESENTATIVES**

Pursuant to a Decision and Direction of Election issued by the Board on May 7, 1957,¹ an election by secret ballot was conducted on May 24, 1957, under the direction and supervision of the Regional

¹ Not reported in printed volumes of Board Decisions and Orders.