Worthington Corporation *and* C. P. Hargrove, Petitioner *and* United Steelworkers of America, AFL–CIO. *Case No. 10–RD–204. November 1, 1957*

DECISION AND ORDER

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Hugh Frank Malone, 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 Act, the Board has delegated its powers in connection with this case to a three-member panel [Members Murdock, Rodgers, and Bean].

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 Petitioner asserts that the Union is no longer the representative of certain employees of the Employer as defined in Section 9 (a) of the Act.

3. No question affecting commerce exists concerning the representation of employees of the Employer within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act, for the following reasons:

The Union contends that the petition should be dismissed on the ground that the Employer sponsored this decertification petition by and through a supervisor, Howell Hogan.

Prior to May 1957, Howell Hogan was employed as a "group leader," a position in which he "coordinated" the work of five employees, but in which he exercised no actual supervisory authority as defined in the Act. In May 1957, however, Hogan was elevated to the position of "acting foreman," with all of the authority of a regular foreman, including the authority to hire, assign work, direct work, reprimand, and recommend discharges. Moreover, as of the date of the hearing herein on August 22, 1957, Hogan had continued to occupy that position continuously. The Employer contends first, in substance, that Hogan was only substituting temporarily for the regular foreman, McNairy, in the latter's absence because of illness. In view of the fact that Hogan continued to act as a foreman for a period of 2 months after McNairy's return to work in June 1957, we find no merit in this contention. The Employer contends further, in substance, that Hogan is only a temporary foreman because he will shortly be transferred back to his "group leader" position as soon as an increased workload is reduced. In view of the fact that Hogan has occupied the position of foreman for the very substantial period of 3 months and is still occupying that position, and in view of the uncertain time

when he may be transferred back to his former position, we find no merit in this contention. Accordingly, we find that Hogan is a supervisor as defined in the Act.

The record shows that employee Robinson was advised that: Hogan had a petition which was being signed by the employees to support a decertification petition; thereafter Robinson went to Hogan's home for the purpose of signing such petition; Hogan gave Robinson the petition to sign, which Robinson did; all of this occurred in July 1957, at which time Hogan had been a supervisory foreman for 2 months; and thereafter on July 25, 1957, the petition in question was submitted to the Board by the Petitioner as evidence of his showing of interest in support of the instant petition filed on that date.

It thus appears that the Employer, by and through Foreman Hogan, a supervisor, procured signatures for the required showing of interest in support of the instant petition. In view of this direct participation by the Employer in the filing of this decertification petition, we find that the Employer improperly assisted the Petitioner in filing such a petition, and that the rights of *the employees* to file such petitions under Section 9 (c) (1) (A) have been thereby abridged.[1] Accordingly, we shall dismiss the petition.

[The Board dismissed the petition.]

[1] See *Consolidated Blenders, Inc.*, 118 NLRB 545; *Bond Stores, Inc.*, 116 NLRB 1929; *Gold Bond, Inc.*, 107 NLRB 1059.

International Association of Machinists, Lodge 942, AFL-CIO *and* Alloy Manufacturing Company, a partnership composed of John A. Novell and Henry L. Peirone. *Case No. 19-CB-430. November 4, 1957*

DECISION AND ORDER

On January 15, 1957, Trial Examiner Wallace E. Royster 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 Charging Party filed exceptions to the Intermediate Report and a supporting brief, and the General Counsel filed a brief supporting the Intermediate Report.[1]

The Board has reviewed the rulings of the Trial Examiner made at the hearing and finds that no prejudicial error was committed. The

[1] The Respondent Union filed no exceptions, but requested oral argument. This request is hereby denied.