

Stroehmann Brothers Company and Dan Stolicker, Walter Moore and Frank DeSisti, Petitioners and Bakery and Confectionery Workers' International Union of America, and its Local 354 (Independent). Case No. 4-RD-192. May 1, 1958

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed, a hearing was held before a hearing officer of the National Labor Relations Board.¹ 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 [Chairman Leedom and Members Bean and Fanning].

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 named below claims to represent certain employees of the Employer.

3. A question affecting commerce exists concerning the representation of certain employees of the Employer, within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act.²

4. The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act:³

All inside production employees at the Employer's Sayre, Pennsylvania, plant, excluding garage and plant maintenance employees,

¹ The petition and other formal papers are hereby amended to show the correct names of the Employer and of the Union, as they appear in the caption. The Petitioners, employees of the Employer, assert that the Union is no longer the representative, as defined in Section 9 (a) of the Act, of the employees designated in the petition.

² The Union contends that no question concerning representation exists on the grounds that (1) the petition was filed within the year following its certification as bargaining representative, and (2) it was not filed 60 days prior to the expiration date of its contract with the Employer. As to (1), the Union was certified as bargaining representative of the employees involved herein on July 11, 1957. About November 1957, the parties agreed to extend the terms of an already expired contract, with certain modifications, until February 5, 1958. The present petition was filed on January 15, 1958. In the *Ludlow Typograph Company* case, 108 NLRB 1463, the Board held that where an Employer and a certified union enter into a collective-bargaining agreement within the certification year, the certification year merged with that of the contract, after which there is no need to protect the certification further, the contract becoming controlling with respect to the timeliness of a rival petition. We find that the rule of the *Ludlow* case is applicable to the present case, and that the petition was not untimely because it was filed prior to the end of the certification year. *General Electric Company, Apparatus Service Shop*, 115 NLRB 1424; *The Union Forging Company*, 114 NLRB 1250, 1251-1254. As to (2), it is sufficient answer that the contract has already expired and no new contract has been executed. Accordingly, we find no merit in the Union's contention that the petition was not timely filed.

³ The stipulated unit, described above, is the certified unit which was incorporated into the contract between the Employer and the Union.

driver-salesmen, office clerical employees, guards, and supervisors as defined in the Act.

[Text of Direction of Election ⁴ omitted from publication.]

⁴ As Section 9 (c) (3) precludes the Board from holding an election within 12 months from the date of a valid election, we shall amend the Direction of Election to provide that the election shall not be held until after the anniversary date of the last election, on a date to be determined by the Regional Director.

International Association of Machinists, Local Lodge 889, AFL-CIO; Oklahoma State Building and Construction Trades Council, AFL-CIO; and Lawton Building and Construction Trades Council, AFL-CIO and Freeman Construction Company, and W & L Construction Company, et al. Cases Nos. 16-CC-76 and 16-CC-79. May 2, 1958

DECISION AND ORDER

On December 19, 1957, Trial Examiner George A. Downing issued his Intermediate Report in the above-entitled proceeding, finding that the Respondents had engaged in and were engaging in certain unfair labor practices and recommending that they cease and desist therefrom and take certain affirmative action, as set forth in the copy of the Intermediate Report attached hereto. Thereafter the Respondent International Association of Machinists, Local Lodge 889, AFL-CIO, filed exceptions to the Intermediate Report and a supporting brief.

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 [Chairman Leedom and Members Rodgers and Bean].

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, the brief, and the entire record in the case, and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner.

ORDER

Upon the entire record in the case and pursuant to Section 10 (c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that International Association of Machinists, Local Lodge 889, AFL-CIO, Oklahoma State Building and Construction Trades Council, AFL-CIO, and Lawton Building