

**Manhattan Adhesives Corporation, Petitioner and Local 816,  
International Brotherhood of Teamsters, Chauffeurs, Ware-  
housemen and Helpers of America. Case No. 2-RM-959.  
May 12, 1959**

**SUPPLEMENTAL DECISION AND CERTIFICATION OF  
RESULTS OF ELECTION**

Upon investigation of objections to conduct and of challenged ballots affecting the results of the election conducted in this proceeding, the Regional Director issued and duly served upon the parties his report on objections and challenges in which he found that the Union's objections lacked merit, and recommended that they be overruled and that the challenges to the ballots of 11 individuals be sustained and the remaining 16 challenges be overruled. As the counting of the ballots which he overrules would have no effect on the election results, the Regional Director recommended that these ballots remain unopened and that the results of the election be certified. The Union filed timely exceptions to the Regional Director's report.

The Board<sup>1</sup> has considered the Union's objections, the Regional Director's report, and the Union's exceptions thereto, and hereby adopts his findings and recommendations with the following modifications and additions:

The Regional Director overruled objections by the Union which related to its failure to obtain timely access to the site of the balloting and the starting of the instant election before the arrival of the union observer. The Union contends in its exceptions that the true reason that its observer arrived late at the election and was thereby not able to challenge ballots "was that the Union was awaiting the arrival of the Board agents and was not aware that the election had begun." The Union, however, has presented no evidence, nor is there any in the record, to indicate that this was part of the election arrangement or that any prior agreement had been made with the Board agent to meet the union representative prior to the scheduling of the instant election. To the contrary it appears undisputed that all parties had received adequate notice of the time and the place of the election, and the failure of the union representative to arrive on time was due to his own not the Board's or the Employer's inadvertence. Under the circumstances we find that the Region acted properly in holding the election at the scheduled time without the presence of the Union's observer.<sup>2</sup>

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<sup>1</sup> 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 Rodgers, Bean, and Fanning].

<sup>2</sup> See *Cities Service Oil Co. of Pennsylvania*, 87 NLRB 324, 328.

In its exceptions the Union further contends that the Regional Director gave no weight or failed to take into account the sworn statements of employees which directly contradict his findings particularly as to the objections numbered (4), (5), and (6), and as to challenges by the Union of votes cast by alleged supervisory employees and by replacements of economic strikers. We have examined the affidavits in question and find that they raise no material issues as to the factual findings made by the Regional Director, and that they are not inconsistent with his conclusions on the Union's objections. As to the challenged ballots, we are persuaded from the entire record, including the affidavits in question, that 10 of the 17 economic strikers who presented themselves to vote had been permanently replaced and agree with the Regional Director's determination that the Employer's challenges to 10 of these ballots should be sustained.<sup>3</sup> Similarly, we find that the Union's challenge to the six employees who permanently replaced economic strikers should be overruled. As no exception was made to the Regional Director's sustaining the challenge to the ballot of Burroughs whose name did not appear on the eligibility list, we adopt his recommendation *pro forma*. In light of this disposition we find unnecessary to rule directly on the Union's challenges to the ballots of the three alleged supervisors, since we have sustained sufficient challenges to indicate that the Union could not in any case receive a majority of the ballots. Accordingly, as the tally of ballots shows that the Union has not received a majority of the valid votes cast in the election, we shall certify the results of the election.

[The Board certified that a majority of the valid ballots was not cast for Local 816, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, and that said Union is not the exclusive representative of the employees in the unit heretofore found appropriate.]

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<sup>3</sup> See *Aiello Dairy Farms Co.*, 114 NLRB 1185, 1186.

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**Sequim Lumber and Supply Company and Western Washington District Council No. 23, International Woodworkers of America, AFL-CIO, Petitioner.** *Case No. 19-RC-2313. May 12, 1959*

### DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed, a hearing was held before Dan E. Boyd, hearing officer of the National Labor Relations Board. His rulings made at the hearing are free from prejudicial error and are hereby affirmed.