

CONCLUSIONS OF LAW

1. United Brick and Clay Workers of America, AFL-CIO, is a labor organization within the meaning of Section 2(5) of the Act.

2. All production and maintenance employees employed by the Respondent at his plant in Morehead, Kentucky, exclusive of the office clerical employees, professional employees, guards, and watchmen, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(c) of the Act.

3. At all times since June 17, 1957, the Union has been, and now is, the certified exclusive bargaining representative of all the employees in the aforesaid appropriate unit for the purposes of collective bargaining within the meaning of Section 9(a) of the Act.

4. By failing and refusing on, and at all times since, October 5, 1957, to bargain collectively with United Brick and Clay Workers of America, AFL-CIO, as the exclusive bargaining representative of the employees in the aforesaid appropriate unit, the Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8(a)(5) and (1) of the Act.

5. By discharging Bill Curtis on July 3, 1957, and by refusing to reinstate the unfair labor practice strikers listed on Appendix A upon request on August 15, 1957, thus discriminating in regard to their hire and tenure of employment, thereby discouraging membership in Brick and Clay Workers Union of America, AFL-CIO, the Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8(a)(3) and (1) of the Act.

6. By interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act, the Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8(a)(1).

7. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act.

[Recommendations omitted from publication.]

University Lithoprinters, Inc., Petitioner and Detroit Bindery Workers' Union No. 20, International Brotherhood of Bookbinders, AFL-CIO and Amalgamated Lithographers of America, Local 9. *Cases Nos. 7-RM-255 and 7-RM-258. June 26, 1959*

DECISION, ORDER, AND DIRECTION OF ELECTION

Upon separate petitions duly filed under Section 9(c) of the National Labor Relations Act, a consolidated hearing was held before William P. Daniel, 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 Rodgers, Jenkins, and Fanning].

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 labor organizations involved claim to represent certain employees of the Employer.

3. *Case No. 7-RM-255.* On November 22, 1957, the Employer entered into a contract with Detroit Bindery Workers' Union No. 20, International Brotherhood of Bookbinders, AFL-CIO, herein called the Bindery Workers, which by its terms was to be effective from

November 1, 1957, to October 31, 1958. The contract provides that the agreement shall continue in force and effect from year to year, unless either party notifies the other in writing of any proposed changes within 60 days prior to the expiration date of the contract. It is undisputed that such notice was not given. The contract further provides in its preamble that:

The Party of the First Part agrees that the wages, hours, terms, and conditions of employment contained in the contract by and between the Bindery Union Employees Section of the Graphic Arts Association of Michigan, Inc., and the Detroit Bindery Workers' Union No. 20, AFL-CIO shall become effective on November 1, 1958.

The record discloses that the contract between the Graphic Arts Association and the Bindery Workers was executed on August 20, 1958, and made effective from July 31, 1958, to July 30, 1961.

The Bindery Workers contend that the contract is a bar to the petition; the Employer contends it is no bar. We find no merit in the Employer's position that the term "from year to year" in the automatic renewal clause is indefinite and ambiguous. The Board has frequently found the identical language to be sufficiently definite to bar a petition.¹ As it is undisputed that no notice had been given pursuant to the provisions of the contract between the Employer and the Bindery Workers to forestall its automatic renewal, and as the petition, filed on December 31, 1958, was untimely in relation to the renewal date of this contract, we shall dismiss the petition in Case No. 7-RM-255, as untimely filed.²

Case No. 7-RM-258: The Employer and Amalgamated Lithographers of America, Local 9, herein called the Lithographers, entered into a contract, effective from November 1, 1957, to October 31, 1958. There was no provision made for automatic renewal. The contract provides under the caption, "Duration," as follows:

Effective on the 1st Day of November, 1958, the Company will observe all the terms and conditions of the Collective Bargaining Agreement then in existence between Local No. 9, Amalgamated Lithographers of America and the Employing Lithographers' Association.

* * * * *

It is agreed by the Union and the Company that *this is an Interim Agreement* effective November 1st, 1957 and will be binding upon both parties until November 1st, 1958, at which time

¹ See, e.g., *Appalachian Shale Products Co.*, 121 NLRB 1160.

² We need not determine whether the Graphic Arts contract became operative on November 1, 1958, as in any case, either the renewed contract or the Graphic Arts contract would operate as a bar, at least until the *Mill B* date of the renewed contract. *Deluxe Metal Furniture Company*, 121 NLRB 995; *Republic Steel Corporation*, 84 NLRB 483.

the Company will become a signator to the agreement appended hereon and marked as "Exhibit A", "Articles of Agreement". [Emphasis supplied.]

Exhibit A states that the Employer has examined and agrees to the terms and conditions contained in the contract between the Lithographers and the Employing Lithographers' Association. The record shows that the Employer never signed, nor was it requested to sign, Exhibit A.

The Lithographers urge the contract as a bar; the Employer disagrees. We find no merit in the Lithographers' contention that the actual signing of Exhibit A by the Employer was not necessary to put the Association contract into effect. The contract specifically recites that it is an "interim agreement" until November 1, 1958, and that on such date the Employer *will become* a signatory to the Association agreement. Accordingly, we find the contract merely represented an agreement to agree, and that the Association contract was not in fact adopted as of November 1, 1958. The previous contract having expired, and there being no contract in effect when the petition was filed on January 16, 1959, we find no bar to this proceeding.

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

All lithographic production employees of the Employer at its Ypsilanti, Michigan, plant, excluding all other employees, maintenance employees, guards, and all supervisors as defined in the Act.

[The Board dismissed the petition in Case No. 7-RM-255.]

[Text of Direction of Election omitted from publication.]

³ The unit appears as stipulated at the hearing.

Mid-Continent Coal & Coke Company and Worley D. Hubbard and Redstone Workers Association, Party to the Contract

Redstone Workers Association and George J. Flogaus and Mid-Continent Coal & Coke Company, Party to the Contract.

Cases Nos. 30-CA-547 and 30-CB-92. June 30, 1959

DECISION AND ORDER

On February 10, 1959, Trial Examiner Wallace E. Royster issued his Intermediate Report in the above-entitled proceeding, finding that the Respondents had engaged in certain unfair labor practices and recommending that they cease and desist therefrom and take certain affirmative action, and further finding that the Respondents had