

All Boro Metal Products Co., Inc. and Office Help Temporaries and International Brotherhood of Electrical Workers, Local 1783, AFL-CIO, Petitioner. *Case No. 2-RC-10194. March 15, 1960*

AMENDED DECISION, ORDER, AND DIRECTION
OF ELECTION

Pursuant to a petition filed on August 20, 1959, the Board, on November 9, 1959, issued a Decision and Direction of Election¹ in this proceeding in which it found that Office Help Temporaries, herein called OHT, was the Employer of the regular full-time warehousemen employed at 810 Finemore Road, Mamaroneck, New York, whom the Petitioner seeks to represent. On November 17, 1959, the Petitioner filed with the Board a motion for reconsideration, urging that the Board reconsider its aforementioned Decision and find that All Boro Metal Products Co., Inc., herein called All Boro, was the Employer of the employees involved. Thereafter, OHT filed a response in support of the Petitioner's motion, while All Boro submitted a motion in opposition. The Board, having duly considered the Petitioner's motion and the responses thereto, concluded that the issues thus raised could best be resolved by a hearing. Accordingly, on December 4, 1959, the Board remanded the proceeding of the Regional Director for the Second Region with instructions to conduct a hearing for the purpose of taking additional evidence as to whether All Boro or OHT is the Employer of the employees named in the petition.

On January 19, 1960, the hearing on remand was held. The record developed at this hearing discloses that OHT is engaged in furnishing temporary office help to businesses located in New York and New Jersey, and has for some time furnished such help to All Boro. Prior to April 1958, and unknown to OHT, the Petitioner commenced an organizational campaign among the warehousemen who were then concededly employed by All Boro. On or about April 9, 1958, All Boro contacted OHT and arranged for the latter to undertake bookkeeping duties and functions for its warehouse employees. Pursuant to this arrangement, OHT maintains a payroll for these employees and pays them out of funds provided by All Boro for the number of hours worked as certified by All Boro. In addition, OHT pays social security, workmen's compensation, unemployment, and withholding taxes for the warehousemen. However, these payments are made from funds which All Boro remits to OHT for this purpose at the rate of 25 cents for each hour worked. The record on remand also discloses that OHT neither interviews, hires, nor discharges the warehouse employees but that such functions are actually performed by All Boro.

¹ Unpublished.

In view of the foregoing, and the entire record in this proceeding, the Board finds that All Boro, and not OHT, is the Employer of the employees involved. We shall, accordingly, amend our original Decision herein.

ORDER

IT IS HEREBY ORDERED that the original Decision herein be, and it hereby is, amended to read as follows:

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

All regular full-time warehouse employees employed by All Boro Metal Products Co., Inc. at 810 Finemore Road, Mamaronck, New York, excluding all other employees, office clericals, watchmen, guards, executives, and all supervisors as defined in the Act.

[Text of Direction of Election omitted from publication.]

CHAIRMAN LEEDOM and MEMBER BEAN took no part in the consideration of the above Amended Decision, Order, and Direction of Election.

United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the U.S. and Canada, Local 8, AFL-CIO and United Contractors Council and William H. Bishop d/b/a Bishop Plumbing and Elect. Co.
Case No. 17-CC-107. March 16, 1960

DECISION AND ORDER

On January 11, 1960, Trial Examiner George A. Downing issued his Intermediate Report in this proceeding finding that the Respondent had engaged in certain unfair labor practices within the meaning of Section 8(b)(4)(A) of the National Labor Relations Act 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 General Counsel filed exceptions to the limited scope of the recommended order and a brief in support thereof. The Respondent filed a brief in reply to the General Counsel's exceptions.

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 Bean and Fanning].

The Board has reviewed the rulings made by the Trial Examiner at the hearing and finds that no prejudicial error was committed. The rulings are hereby affirmed. The Board has considered the entire