

cluding all other employees and supervisors as defined in the Act.

CONVAIR-POMONA—A DIVISION OF CONVAIR,
A DIVISION OF GENERAL DYNAMICS,
Employer.

Dated _____ By _____
(Representative) (Title)

This notice must remain posted for 60 days from the date hereof, and must not be altered, defaced, or covered by any other material.

Yakima Cascade Fuel Co., et al. and Teamsters, Chauffeurs, Warehousemen & Helpers, Local Union No. 524, Petitioner.
Case No. 19-RC-2506. March 25, 1960

DECISION AND ORDER

Upon a petition duly filed, a hearing was held before a hearing officer of the National Labor Relations Board. 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 Rodgers and Jenkins].

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 involved claims to represent employees of the Employer.
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 Employer, primarily engaged in the retail sale of heating oils, coal, and wood to homeowners, contends that the Board should not assert jurisdiction herein. During the last fiscal year, the Employer made direct and indirect out-of-State purchases amounting to \$109,549.13, and its total sales, all made within the State, amounted to \$153,921.27. Wholesale sales consisted only of \$1,500 worth of fuel sold to grocery stores in and near Yakima; \$3,500 worth of fuel sold to J. M. Perry Institute, a privately endowed school of tech-

nology; and \$246.75 in sales to the United States Government, totaling \$5,246.75, less than 4 percent of the Employer's entire business. The remaining sales, amounting to \$148,674.52, were retail sales.

It is the rule of the Board that where an employer is engaged in retail and nonretail operations, the Board will apply nonretail jurisdiction standards to such combination enterprises, except in the case where the nonretail aspect of the Employer's operations is clearly *de minimis*.¹ In the circumstances of the instant case, because the Employer's nonretail business totaled only \$5,246.75, less than 4 percent of its total business, we find that the Employer's operations fall within the *de minimis* exception to the Board's rule for combination retail and nonretail enterprises. Accordingly, the commerce standards established by the Board for retail operations are applicable to the Employer. As the Employer's operations do not meet the jurisdictional standard for a retail business, we find that it will not effectuate the purposes of the Act to assert jurisdiction herein.² Accordingly, we shall dismiss the petition.

[The Board dismissed the petition.]

¹ *The T. H. Rogers Lumber Company*, 117 NLRB 1732, 1733.

² *Carolina Supplies and Cement Co.*, 122 NLRB 88.

**Wilbur K. Logan, d/b/a Reservation Feed Mill and Teamsters,
Chauffeurs, Warehousemen and Helpers, Local Union No. 524.
Cases Nos. 19-CA-1806 and 19-CA-1830. March 28, 1960**

DECISION AND ORDER

On December 16, 1959, Trial Examiner Howard Myers 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 Respondent filed exceptions to the Intermediate Report with a supporting brief.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its powers in connection with this proceeding to a three-member panel [Chairman Leedom and Members Bean and Jenkins].

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 and brief, and the entire record in this