

**Al & Dick's Steak House, Inc. and International Food Service  
Employees Union Local No. 1, Petitioner. Case No. 2-RC-10623.  
January 6, 1961**

**DECISION AND ORDER**

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, a hearing was held before Carl G. Coben, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

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 organization involved claims to represent employees of the Employer.<sup>1</sup>
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 Petitioner on January 28, 1960, demanded recognition as the representative of the Employer's doorman. The Employer refused to grant recognition. On March 16, 1960, the Employer filed a charge of Section 8(b)(7)(C) violation, in Case No. 2-CP-25, alleging that the Petitioner had instituted picketing at the Employer's restaurant to force it to grant recognition. On March 23 the Petitioner filed the instant petition, pursuant to Sections 8(b)(7)(C) and 9(c), for an expedited election in a unit of the Employer's one doorman. The General Counsel, pursuant to the Board's Rules and Regulations, investigated the charge and being satisfied that the object of the picketing was proscribed by Section 8(b)(7), suspended further processing of the charge pending disposition of the petition filed herein.

Section 8(b)(7)(C) makes it an unfair labor practice to picket for a proscribed object "when such picketing has been conducted without a petition under Section 9(c) being filed within a reasonable period not to exceed 30 days from the commencement of such picketing: Provided, that when such a petition has been filed the Board shall forthwith, without regard to the provisions of Section 9(c)(1) or the absence of a showing of a substantial interest on the part of the labor organization, direct an election in such unit as the Board finds to be appropriate and shall certify the results thereof." As noted above the instant petition is for a unit of one doorman, and the record establishes that the Employer had but one doorman who is its sole unrepresented employee. In cases arising under 9(c)(1) the Board has long held that it is without power to certify a labor organization as the repre-

<sup>1</sup> As the Petitioner represents employees for the purpose of collective bargaining with respect to wages, hours, working conditions, and other conditions of employment, we find that it is a labor organization as defined in the Act.

sentative of but one employee and has followed the policy of not directing elections in one-man units.<sup>2</sup> We see no reason to modify this policy where we have before us a petition for an expedited election under Sections 8(b)(7)(C) and 9(c). Section 8(b)(7)(C) contemplates a situation where the picketing labor organization is an expedited election can establish its majority status in the unit of employees affected by the picketing and be certified for such unit. As the picketing union cannot, under Board policy, be certified, because the unit involved is inappropriate, no election can be held and the petition in such circumstances cannot serve to block the further processing of the charges of 8(b)(7) violation. We express no opinion, of course, as to whether the picketing involved in such charges is violative of 8(b)(7). Accordingly, as we do not direct an election in the one-man unit involved herein, we shall dismiss the petition.

[The Board dismissed the petition.]

MEMBER KIMBALL took no part in the consideration of the above Decision and Order.

<sup>2</sup> *Luckenbach Steamship Company, Inc., et al.*, 2 NLRB 181, 193.

**Moloney Electric Company and Local 2, International Union of Operating Engineers.** *Case No. 14-CA-2363. January 9, 1961*

DECISION AND ORDER

On September 20, 1960, Trial Examiner Lloyd Buchanan 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 and a brief in support thereof.

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 Intermediate Report, the exceptions and brief, and the entire record in the case, and hereby adopts the Trial Examiner's findings, conclusions, and recommendations.

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 the Respondent, Moloney Electric Company, St. Louis, Missouri, its officers, agents, successors, and assigns, shall: