

Without reiterating the facts, it seems to me it should be evident to anyone acquainted with them—as well as to those whose unhappy lot the ever exasperating footnotes become required reading—that they do not make out a case. Nor can one reasonably, I believe, recommend by means of a process of boosting, bootstrapping, bolstering, and borrowing from 130 NLRB 1356, that a second restraining or constraining order should issue. Sufficient unto *that* case is the evil thereof.

The way to industrial peace and prosperity is not found paved with litigious stumbling blocks on suspicion of malign intent whenever an already chastened employer, once called to account for having slipped over the metes and bounds of fair practice, thereafter exercises his legitimate managerial prerogatives.

#### CONCLUSIONS OF LAW

Respondent, an employer engaged in commerce within the meaning of the Act, has not engaged in conduct in violation of Section 8(a)(3), (4), or (1) of the Act.

[Recommendations omitted from publication.]

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**Avis Rent-a-Car System, Inc.<sup>1</sup> and Auto Transportation, New Trailer & Armored Car Drivers, Garagemen, Gas Station & Parking Lot Operators Union, Local No. 964, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Petitioner. Case No. 8-RC-4263. August 21, 1961**

#### DECISION AND DIRECTION OF ELECTION

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

Pursuant to Section 3(b) of the National Labor Relations Act, the Board has delegated its powers herein to a three-member panel [Members Leedom, Fanning, and Brown].

Upon the entire record, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act.
2. The labor organization named below claims to represent certain employees of the Employer.
3. A question affecting commerce exists concerning the representation of certain employees of the Employer within Section 9(c) (1) and Section 2(6) and (7) of the Act.
4. The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within Section 9(b) of the Act:

All garage employees, including garagemen, mechanics, mechanics helpers, lotmen, lubrication men, tiremen, and gasmen, at the Employer's Cleveland, Ohio, truck rental agency, excluding all rental

<sup>1</sup> The name of the Employer appears as amended at the hearing.

agents or countermen,<sup>2</sup> office clerical employees, professional employees, guards, and supervisors as defined in the Act.

[Text of Direction of Election omitted from publication.]

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<sup>2</sup>The Employer urges the inclusion of rental agents, otherwise referred to as countermen, as part of the unit. The Petitioner opposes their inclusion. The Employer's Cleveland, Ohio, branch involved herein handles both long- and short-term leasing of trucks and long-term leasing of automobiles. The operation consists of a garage where the mechanics and helpers are engaged in the repair and maintenance of vehicles, a lot for storage, and a service area where servicemen check, change, and repair tires, change oil, lubricate and supply gas, wash and clean, and generally prepare vehicles and any additional equipment for delivery to customers. Servicemen also deliver vehicles and any equipment to the customer on the premises or at the customer's location, and, accompanied by a mechanic, deliver replacements for leased trucks which break down. Occasionally a mechanic will perform some of the service duties and similarly a serviceman may install a battery or adjust brakes.

The rental agents work behind a counter in a structure housing the office and adjacent to the garage and service area. They take telephone as well as personal orders from customers for equipment and vehicles, inform the customer of the type available, prepare the necessary rental agreements, obtain the required information, and arrange that the proper vehicle is serviced and ready for delivery at the agreed time. Although rental agents may occasionally deliver equipment or clean a vehicle for delivery during rush periods, their primary duties are in the nature of office clerical employees as distinguished from job functions of the mechanics and servicemen who are engaged in manual labor. Accordingly, we shall exclude rental agents from the appropriate unit. The bookkeeper is also excluded as an office employee. A utility man handles the duties of a rental agent for the first hour each morning but is engaged for the remaining hours either as a serviceman or as a mechanic's helper. As a major portion of his time is devoted to work performed by employees in the unit, the utility man is included.

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**Waldensian Bakeries, Inc. and Teamsters Local Union No. 61,  
International Brotherhood of Teamsters, Chauffeurs, Ware-  
housemen and Helpers of America. Case No. 11-CA-1708.  
August 22, 1961**

#### DECISION AND ORDER

On March 28, 1961, Trial Examiner Louis Libbin issued his Intermediate Report in the above-entitled proceeding, finding that the Respondent had engaged in and is engaging in certain unfair labor practices and recommending that it cease and desist therefrom and take certain affirmative action, as set forth in the Intermediate Report attached thereto. The Trial Examiner also found that the Respondent had not engaged in certain other unfair labor practices as alleged in the complaint, and recommended that these particular allegations be dismissed. 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 case to a three-member panel [Chairman McCulloch and Members Rodgers and Fanning].