

**Chauffeurs, Teamsters and Helpers Local Union 215, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America and The Bedford-Nugent Corp. Case No. 25-CB-473. June 11, 1962**

DECISION AND ORDER

On March 8, 1962, Trial Examiner C. W. Whittemore 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 Intermediate Report attached hereto. Thereafter, the Respondent filed exceptions to the Intermediate Report.

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, Fanning, and Brown].

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 the entire record in the case, and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner as modified below.<sup>1</sup>

ORDER

The Board adopts the Recommendations of the Trial Examiner as its Order with the following modifications:

1. Paragraph 1 of the Recommendations shall be modified to read: "1. Cease and desist from in any manner restraining or coercing employees of The Bedford-Nugent Corp. in the exercise of rights guaranteed in Section 7 of the Act."

2. Paragraph 2(c) of the Recommendations shall be modified to read: "Notify the Regional director for the Twenty-fifth Region, in writing, within 10 days from the date of this Order, what steps the Respondent has taken to comply herewith."

3. The notice referred to in the Recommendations shall be modified

<sup>1</sup> The Respondent excepted to the Trial Examiner's recommendation that it cease and desist from in any manner restraining or coercing the employees of The Bedford-Nugent Corp. "or of any other employer." The Respondent's violations were in fact limited to the employees of The Bedford-Nugent Corp. In view of *Communications Workers of America, AFL-CIO and Local No. 4372, etc. v. N.L.R.B. (Ohio Consolidated Tele. Co.)*, 362 U.S. 479, we shall limit our order accordingly. *District 65, Retail, Wholesale and Department Store Union, AFL-CIO (I. Posner, Inc.)*, 133 NLRB 1555; *Local 316, United Cement, Lime and Gypsum Workers International Union, AFL-CIO; United Cement, Lime and Gypsum Workers International Union, AFL-CIO (National Gypsum Company)*, 133 NLRB 1445.

so that the words "A Decision and Order" shall be substituted for the words "The Recommendations of a Trial Examiner."<sup>2</sup>

4. The said notice shall be further modified so that the paragraph thereof reading "WE WILL NOT in any manner restrain or coerce employees of The Bedford-Nugent Corp., or any other employer, in the exercise of the rights guaranteed in Section 7 of the Act" shall read: "WE WILL NOT in any manner restrain or coerce employees of The Bedford-Nugent Corp. in the exercise of the rights guaranteed in Section 7 of the Act."

<sup>2</sup>In the event that this Order is enforced by a decree of a United States Court of Appeals, there shall be substituted for the words "Pursuant to a Decision and Order" the words "Pursuant to a Decree of the United States Court of Appeals, Enforcing an Order."

## INTERMEDIATE REPORT AND RECOMMENDED ORDER

### STATEMENT OF THE CASE

A charge in the above-entitled case was filed on November 17, 1961, by The Bedford-Nugent Corp. A complaint and notice of hearing thereon were issued and served by the General Counsel of the National Labor Relations Board on December 27, 1961. The Respondent's answer was received on January 2, 1962. Pursuant to notice, a hearing involving allegations of unfair labor practices within the meaning of Section 8(b)(1)(A)<sup>1</sup> of the National Labor Relations Act, as amended, was held in Evansville, Indiana, before the duly designated Trial Examiner.

At the hearing all parties were represented by counsel.

At the opening of the hearing General Counsel's motion to amend the complaint in certain minor respects was granted. Counsel for the Respondent then moved that paragraph numbered 5(a) of the complaint, as amended, be stricken on the ground that even if proven the allegation therein was not violative of the Act. General Counsel did not formally oppose the motion, stating only that he would "stand on the paragraph as written." The motion was granted.

Upon the granting of this motion counsel for the Respondent withdrew the answer. General Counsel then moved for summary judgment, and the motion was granted.

In accordance, therefore, with Rules and Regulations of the National Labor Relations Board, Section 102.20,<sup>2</sup> the Trial Examiner deems true the allegations of the complaint, as amended, in Case No. 25-CB-473, and makes the following:

### FINDINGS OF FACT

#### I. THE BUSINESS OF THE CHARGING PARTY

The Bedford-Nugent Corp. is an Indiana corporation, with places of business in Indiana and Kentucky, and its principal place of business in Evansville, Indiana. It is engaged principally in the extraction and preparation of river sand and gravel.

During the year preceding issuance of the complaint, it sold and shipped from its Indiana facilities sand and gravel valued at more than \$50,000 to points outside that State. During the same period it sold and shipped from its Kentucky facilities to points outside the State of Kentucky sand and gravel valued at more than \$50,000. And during the same period it purchased and caused to be delivered to its Indiana facilities materials valued at more than \$50,000 directly from points outside the State of Indiana, and to its Kentucky facilities materials valued at more than \$50,000 directly from points outside the State of Kentucky.

The Charging Party is engaged in commerce within the meaning of the Act.

<sup>1</sup> The Trial Examiner notes that the complaint also contains a summary allegation that by acts "described above" the Respondent also violated Section 8(a)(1) and (5) of the Act. It is clear that this allegation is inadvertent.

<sup>2</sup> Relevant portions of this rule read: "All allegations in the complaint, if no answer is filed . . . shall be deemed to be admitted to be true and shall be so found by the Board, unless good cause to the contrary is shown." See the Board's discussion of application of this rule in *Liquid Carbonic Corporation*, 116 NLRB 795, 797.

## II. THE RESPONDENT UNION

Chauffeurs, Teamsters and Helpers Local Union 215, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, is a labor organization within the meaning of the Act.

At all times material herein Clifford Arden, president, and Glenn Wilkinson, vice president, have been and are agents of the Respondent Union within the meaning of Section 2(13) of the Act.

## III. THE UNFAIR LABOR PRACTICES

On or about September 26, 1961, the Respondent Union called, authorized, sanctioned, and conducted a strike against the Charging Employer.

On or about the dates indicated below, in the course and conduct of the strike, the Respondent Union by and through its officers, agents, and representatives restrained and coerced employees of the Employer in the exercise of the rights guaranteed them in Section 7 of the Act, by engaging in and participating in conduct and activities described as follows:

(a) On or about September 28 and 29, 1961, the Respondent Union, by and through its agent, Glenn Wilkinson, threw and placed nails and tacks in and around the highways and driveways leading to the Employer's Rockport and Henderson facilities, thereby damaging employees' property, and obstructing and interfering with ingress to and egress from the said premises by employees of the Employer and other employers.

(b) On or about September 27 and 28 and October 9, 1961, the Respondent Union by its agent, Glenn Wilkinson, displayed and brandished an air pistol, and fired pellets from said pistol at the Employer's and customers' trucks driven by their employees while and because they were entering the premises of the Employer's Rockport facility.

(c) On or about September 28, 1961, the Respondent Union, by its agent, Glenn Wilkinson, damaged the automobile of an employee of the Employer while with the pickets of the Respondent Union near the premises of the Employer's Rockport facility, because said employee crossed the Respondent's picket line and worked for the Employer during the strike described above.

## IV. THE EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

The activities of the Respondent Union set forth in section III, above, occurring in connection with the operations of the Charging Company described in section I, above, have a close, intimate, and substantial relation to trade, traffic, and commerce among the several States, and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

Upon the basis of the foregoing findings of fact, and upon the entire record in the case, the Trial Examiner makes the following:

### CONCLUSIONS OF LAW

1. Chauffeurs, Teamsters and Helpers Local Union 215, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, is a labor organization within the meaning of Section 2(5) of the Act.

2. By engaging in the conduct above described, the Respondent restrained and coerced employees within the meaning of Section 8(b)(1)(A) of the Act.

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

### RECOMMENDATIONS

Upon the basis of the above findings of facts and conclusions of law, the Trial Examiner recommends that Chauffeurs, Teamsters and Helpers Local Union 215, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, its officers, agents, representatives, successors, and assigns, shall:

1. Cease and desist from in any manner restraining or coercing employees of The Bedford-Nugent Corp., or any other employer, in the exercise of rights guaranteed in Section 7 of the Act

2. Take the following affirmative action which the Trial Examiner finds will effectuate the policies of the Act:

(a) Post in its business office and meeting halls, copies of the notice attached hereto marked "Appendix" Copies of said notice, to be furnished by the Regional Di-

rector for the Twenty-fifth Region, shall, after being duly signed by an official representative of the Respondent, be posted by the Respondent immediately upon receipt thereof, and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including all other places where notices to its members are customarily posted. Reasonable steps shall be taken by the Respondent to insure that said notices are not altered, defaced, or covered by any other material.

(b) Mail signed copies of the said notice to the Regional Director for the Twenty-fifth Region for posting, the Charging Employer willing, at all locations where notices to its employees are customarily posted. Copies of said notice, to be furnished by the said Regional Director, after being duly signed by an authorized representative of the Respondent, shall be forthwith returned to the said Regional Director for such posting.

(c) Notify the Regional Director for the Twenty-fifth Region, in writing, within 20 days from the date of receipt of this Intermediate Report, what steps the Respondent has taken to comply herewith.

It is further recommended that, unless the Respondent shall within the prescribed period notify the said Regional Director that it will comply with the foregoing recommendations, the National Labor Relations Board issue its order requiring compliance.

#### APPENDIX

**NOTICE TO ALL MEMBERS OF CHAUFFEURS, TEAMSTERS AND HELPERS LOCAL UNION 215, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA, AND TO ALL EMPLOYEES OF THE BEDFORD-NUGENT CORP.**

Pursuant to the recommendations of a Trial Examiner of the National Labor Relations Board, and in order to effectuate the policies of the National Labor Relations Act, as amended, we hereby notify you that:

WE WILL NOT in any manner restrain or coerce employees of The Bedford-Nugent Corp., or any other employer, in the exercise of the rights guaranteed in Section 7 of the Act.

**CHAUFFEURS, TEAMSTERS AND HELPERS LOCAL UNION  
215, INTERNATIONAL BROTHERHOOD OF TEAMSTERS,  
CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF  
AMERICA,**

*Labor Organization.*

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.

Employees may communicate directly with the Board's Regional Office, 614 ISTA Center, 150 West Market Street, Indianapolis, Indiana, Telephone Number, Melrose 2-1551, if they have any question concerning this notice or compliance with its provision.

**The Ingalls Shipbuilding Corporation,<sup>1</sup> division of Litton Industries and International Brotherhood of Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers and Helpers, AFL-CIO, Local Lodge No. 693. Case No. 15-RC-2485. June 11, 1962**

#### DECISION AND ORDER

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, a hearing was held before John T. Lacey, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

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