

**A. R. Gieringer Tool Corp. and Tool & Die Makers Lodge No. 78,
International Association of Machinists, AFL-CIO.** *Cases Nos.
13-CA-3878 and 13-CA-4080. July 18, 1962*

SUPPLEMENTAL DECISION

On December 13, 1961, the Board issued its Decision and Order in the above-entitled matter,¹ finding that the Respondent had engaged in and was engaging in certain unfair labor practices and ordering that it cease and desist therefrom and take certain affirmative action as set forth therein. On its own motion, the Board has reconsidered its decision in this proceeding and hereby modifies and amends its Decision and Order in the following respect:

In its original Decision and Order, the Board reversed Trial Examiner Whittemore's conclusion that the Respondent had not discriminatorily discharged three employees, one of whom was Irving Groves. In partial support of its finding that the reasons given by Respondent for Groves' discharge were pretexts, the Board stated that Groves had not expressed an intention to leave at any time in order to start his own business. The Board was in error in this respect since Groves in fact testified that when Plant Superintendent Mohr spoke to him some weeks before his discharge about his activities on behalf of the Union and had offered to make him a foreman, Groves said that he was thinking about leaving the following March to start his own business. It is also true that Mohr told Groves when he discharged Groves that it was because of Groves' intention to leave anyway. Since we are satisfied, however, that there would not have been any permanent reduction in force among Respondent's employees at this time if it had not been for the Union's campaign, and in view of other record evidence, such as Mohr's hostility to the Union and to Groves in particular because he believed that Groves was responsible for the Union's presence, we are persuaded that Groves was selected for layoff because he was actively engaged in furthering the Union's organizing efforts rather than because Respondent believed that he would be quitting after some months.

Upon reconsideration of the entire record in this case, the Board hereby modifies and amends its decision to correct its misstatement of the record, but in all other respects affirms its findings that the General Counsel established by a preponderance of all the evidence that Respondent was opposed to the organizational campaign, that its stated reasons for the discharge of three active adherents of the Union

¹ 134 NLRB 1214

137 NLRB No. 152.

were pretexts, and that it discharged them because of their union adherence.

MEMBERS RODGERS and FANNING took no part in the consideration of the above Supplemental Decision.

Marcus Trucking Company, Inc. and Dairy Transportation Drivers, Helpers and Terminal Employees, Local 770, International Brotherhood of Teamsters, Chauffeurs and Helpers of America and Local 602, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Party to a Contract. *Case No. 2-CA-6031. July 18, 1962*

SUPPLEMENTAL DECISION AND ORDER

On March 11, 1960, the Board issued a Decision and Order in the above-entitled case,¹ finding that the Respondent had engaged in unfair labor practices in violation of Section 8(a) (1), (2), (3), and (5) of the National Labor Relations Act, as amended, and directing, *inter alia*, that the Respondent (1) make the employees in the appropriate unit whole for any loss of earnings which they may have incurred by reason of the elimination of overtime pay by the Respondent; (2) reimburse all employees in the appropriate unit for all membership dues, initiation fees, and assessments which they paid to Local 602 as a condition of employment during the period commencing May 30, 1958; and (3) restore employee Kenneth Bedford to that position on the seniority roster to which he was rightfully entitled and make him whole for any loss of pay which he suffered as a result of his reduction in seniority.

On January 26, 1961, the United States Court of Appeals for the Second Circuit entered its decision,² affirming the Board's findings of unfair labor practices and enforcing the Board's Order with respect to the loss of earnings resulting from the elimination of overtime pay and with respect to the backpay owing to Kenneth Bedford, but modifying the Board's Order by limiting the reimbursement of dues and other fees "to those employees who continued to pay dues to Local 770 and for the period of such payment, not, however, later than the date when our order becomes final."

On July 31, 1961, the Board's Regional Director for the Second Region issued a backpay specification and, on September 27, 1961, the Respondent filed an answer thereto. Upon appropriate notice issued by the Regional Director, a hearing was held before Trial Examiner

¹ 126 NLRB 1080.

² 286 F. 2d 533.