

manner permitted by the contract to change Richardson's and DeHart's seniority rights at Springfield. To accept the General Counsel's contention that Local 414 acquired the responsibility to uphold Richardson's and DeHart's interest in the Taylor grievance proceeding is in effect to hold that two locals each simultaneously represent Richardson and DeHart and are obligated to look out for their interests. Not only does the scheme of representation embodied in the Act rule out such dual representation, but it is wholly unreasonable to expect a local which represents drivers having adverse interests to Richardson and DeHart to do an adequate job of protecting their rights.

Under all the circumstances, I conclude that under the procedure set forth in the truckaway agreements, Local 414 had no obligation to protect Richardson's and DeHart's interests in processing Taylor's grievance. This was the responsibility of Local 654, the Springfield Local, and its responsibility alone. It should be borne in mind that what gave rise to the filing of the charges in this case was Fugate and Girton's refusal, after September 26 when the Fort Wayne Local Joint Committee ruled that they had no right to regular work at Fort Wayne, to put Richardson and DeHart back to work at Springfield. Especially in these circumstances it is logical to hold that this seniority controversy should be settled under the auspices of Local 654, the Springfield local.

For the reasons stated above, I conclude that the grievance procedure set forth in the truckaway agreements affords a fair and adequate means of disposing of disputes between the employers and the various Teamsters locals,⁴ that under this procedure Local 414 was not obligated to represent the interests of Richardson and DeHart in the Taylor grievance proceedings. Accordingly, Local 414 should not be held to have violated Section 8(b)(1)(A) because of its failure to look out for their interests in the processing of Taylor's grievance.

CONCLUSION OF LAW

Chauffeurs, Teamsters and Helpers Local Union No. 414 International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, has not violated Section 8(b)(1)(A) and (2) of the Act, as alleged in the complaint.

RECOMMENDED ORDER

It is ordered that the complaint herein be, and it is hereby, dismissed.

⁴I recognize that Business Agent Feltis, representing Local 654 at the October 18 hearing at Detroit, took positions which were contrary to the interests of Richardson and DeHart and contrary to Local 654's duty as their bargaining representative. However, the fact that Feltis failed to fulfill his obligations in this regard does not alter the fact that the procedure, itself, was fair.

American Greetings Corporation and International Brotherhood of Pulp, Sulphite and Papermill Workers, AFL-CIO. Case No. 26-CA-1361. April 24, 1963

DECISION AND ORDER

On February 6, 1963, Trial Examiner Thomas N. Kessel issued his Intermediate Report in the above-entitled proceeding, finding that the Respondent had engaged in certain unfair labor practices and recommending that it cease and desist therefrom and take certain affirmative action, as set forth in the attached Intermediate Report. He also found that the Respondent had not engaged in certain other alleged unfair labor practices and recommended dismissal of the complaint as to them. Thereafter, the Respondent filed exceptions to the Intermediate Report and 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].

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 this case, and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner to the extent consistent with our Decision herein.

The Trial Examiner found that Respondent violated Section 8(a) (1) of the Act solely as a result of a conversation on August 15, 1962, between Ann Fortner, classified as a leader by Respondent, and employee Joyce Ann Holt. During this conversation, Fortner asked Holt whether she had signed a union card; told Holt to be careful about "messing" with the Union; stated that the plant manager knew which employees had attended a union meeting and signed union cards; and, observed that these employees would get into trouble because of the meeting.

As set forth in the Intermediate Report, Fortner and Holt were intimate friends of long standing and the conversation in question admittedly arose in the context of Fortner's attempt to counsel Holt concerning the latter's marital problems. Fortner was a very minor supervisor who had been promoted to this position just a few weeks prior to the conversation, and had previously discussed the subject of unions with Holt when both were employees of Respondent. The sole activity by the Union was limited to the solicitation of employees beginning in April 1962. Holt was but 1 of some 704 employees at the plant. As the Trial Examiner acknowledged, there is no evidence of any kind that Fortner's conduct reflected Respondent's policy with respect to the Union, or that Respondent was opposed to the Union or had done anything to interfere with the Union's organizational activities.

In light of these circumstances, and the record as a whole, we find, contrary to the Trial Examiner, that Fortner's remarks to Holt do not warrant remedial treatment. Accordingly, we shall dismiss the complaint herein.

[The Board dismissed the complaint.]

INTERMEDIATE REPORT

STATEMENT OF THE CASE

Upon a charge filed by International Brotherhood of Pulp, Sulphite and Papermill Workers, AFL-CIO, herein called the Union, on August 22, 1962, and an amended charge filed by the Union on October 26, 1962, against American Greetings Cor-

poration,¹ herein called the Respondent, the General Counsel of the National Labor Relations Board, herein called the Board, by the Regional Director for the Twenty-sixth Region issued his complaint dated October 26, 1962, against the Respondent alleging that it has engaged in and is engaging in unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and Section 2(6) and (7) of the National Labor Relations Act, 61 Stat. 136, herein called the Act. The Respondent's answer and its amendment to the complaint denies commission of the statutory violations alleged therein. Copies of the complaint, the charge, and a notice of hearing were duly served upon the parties. Pursuant to notice a hearing was held before Trial Examiner Thomas N. Kessel at Osceola, Arkansas, on December 12, 1962. All parties were represented by counsel or other representative. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence was afforded all parties. The Respondent's request after the hearing closed to correct the transcript is granted and the proposed corrections have been made.

Upon the entire record in the case, and from observation of the witnesses, the Trial Examiner makes the following:

FINDINGS OF FACT

I. PERTINENT COMMERCE FACTS

The complaint alleges and the answer admits that the Respondent is an Ohio corporation having a plant at Osceola, Arkansas, where it manufactures, sells, and ships greeting cards and related products; that in the 12 months preceding issuance of the complaint the Respondent purchased and received at its Osceola plant materials valued in excess of \$50,000 which were shipped to it directly from points outside of the State of Arkansas, and that in the same period the Respondent processed, sold, and shipped from its Osceola plant to points outside the State products valued in excess of \$50,000. The answer admits and I find from the foregoing facts that the Respondent is engaged in commerce within the meaning of the Act and that exercise of the Board's jurisdiction over its operations in this case will effectuate the purposes of the Act

II. THE LABOR ORGANIZATION INVOLVED

The Union is a labor organization admitting to membership employees of the Respondent.

III. THE UNFAIR LABOR PRACTICES

As narrowed at the hearing by amendment of the complaint there is involved in this proceeding the simple resolution of whether the Respondent by certain conduct of its admitted supervisors interfered with, restrained, and coerced employees in violation of Section 8(a)(1) of the Act.

The Respondent's plant in Osceola was open in October 1961. William Bocora, the Respondent's employment and personnel manager, conducted numerous interviews with job applicants to staff the plant. He estimated that prior to the hearing he had talked to about 10,000 persons. Concededly, it was difficult for him to remember the substance of his conversation with particular persons and he acknowledged lack of specific recall of his discussion with former employee Charles E. Johnston and employee George Ballard. Johnston had worked for the Respondent from June 5 to August 21, 1962. He testified that during his preemployment interview Bocora asked him if he knew anything about the Union and if there was a union at the place where he had last worked. Johnston's reply to these inquiries was negative. Nothing more nor less was said about these subjects. Ballard testified that during his interview before he was hired on April 12, 1962, Bocora asked whether he had ever worked under a union. He replied that he had once worked for a Memphis employer where some employees belonged to a union and most did not. He further told Bocora he knew nothing about a union. In support of his denial that he asked these questions Bocora reasoned he did not because there was no necessity to do so. I credit Johnston's and Ballard's testimony because their opportunity for recall was better than Bocora's.

Employee Joyce Ann Holt testified that Ann Fortner, classified by the Respondent as a leader, had asked her on August 15, 1962, whether she had signed a union card Holt admitted having done so. Fortner then told her to be careful about "messing" with the Union; that Plant Manager Williams knew all the employees who had attended the Union's meeting at Keiser, Arkansas; that Williams knew which employees had signed union cards and that they were going to get into trouble because

¹ The Respondent's name appears herein as corrected by the answer to the complaint.

of the meeting; that if Holt's husband, James, who was also employed by the Respondent "had not been messing with the Union, that he probably would have already been fired." Holt further related that Fortner, who was her immediate supervisor, pointed out how badly both needed their jobs and reminded her of the help she had given her in the plant. Holt acknowledged that she and Fortner were intimate friends of long standing and were distantly related by marriage; that she confided in Fortner who counseled her about her marital difficulties, and that on the occasion in question, on August 15, the basic reason for the conversation was Fortner's moral encouragement and advice concerning her marital problem. It was in the course of their heart-to-heart talk that Fortner assertedly mentioned the Union as related above. This was not the first time they had discussed the subject of unions. In prior conversations Fortner had told Holt that she had read about strikes, closed plants, and injuries to people caused by unions.

Fortner confirmed her intimacy with Holt. She recalled that on August 14, Holt had been emotionally disturbed, apparently because of her marital problems, and that she had sent her to the plant dispensary. She remembered sending Holt to Plant Manager Williams the next day and that she had tried to boost her morale at the time. She denied talking to her about the Union on this occasion or ever advising her about the Union except that she did tell her about the unfavorable things she had read concerning unions and on one occasion told her "the less she had to do with it [the Union], the better off she would be." She denied having been instructed by her superiors about what to say to employees concerning the Union or to ask them whether they had signed union cards, or that she had reported to the Respondent the substance of any conversations with employees concerning the Union.

I credit Holt's account of her conversation with Fortner on August 15. I am not convinced by Fortner's denials that she went no further than she admitted in advising Holt to stop messing with the Union. I credit Holt's testimony that the conversation with Fortner occurred on August 15, in the manner described by her.

In evaluating the foregoing findings I must be mindful of the context in which the conduct under scrutiny occurred. The Union's organizational activities among the Respondent's employees, as related by International Representative Wayne E. Glenn, were limited to solicitation of signatures to authorization cards beginning in the spring of 1962. Apart from what may be derived from the remarks of Fortner to Holt, there is no evidence of any kind in the case that the Respondent was opposed or hostile to the Union or had done anything to impede its organizational activities. In these circumstances I do not find that Bocora's questions to Johnston and Ballard during their preemployment interviews tended to coerce employees in the exercise of their Section 7 rights.

Fortner's interrogation of Holt as to her union activities coupled with her revelation that the Respondent's manager knew which employees had attended a union meeting and had signed union cards, thereby creating the impression of surveillance of employees in the course of their union activities, her warning of reprisal against those known to have attended the meeting, her reminder to Holt of how she had aided her progress in the plant, and her admonition to Holt to abstain from union activities in sum had a clear coercive tendency. I have considered the mitigating circumstances including the fact that Fortner was at the bottom of the Respondent's supervisory levels, that her conduct was not shown to have reflected management policy, that her remarks to Holt constituted an isolated incident, and her intimacy with Holt. As to the latter, however, I am aware that friendly advice may well carry greater impact than such advice from a stranger. Were it possible to construe Fortner's remarks as just a friendly suggestion to Holt not to become involved with the Union I might be inclined, in the circumstances of the case, to regard this as a mere technical infringement of the Act not requiring a finding of violation with a formal remedy. But Fortner's comment about the Respondent's knowledge of who attended a union meeting and signed authorization cards together with the warning of reprisal against these employees cannot be so ignored. I find that by Fortner's conduct the Respondent violated Section 8(a)(1) of the Act.

IV. THE EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

The activities of the Respondent set forth in section III, above, occurring in connection with the operations of the Respondent 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 thereof.

V. THE REMEDY

Having found that the Respondent has engaged in unfair labor practices violative of Section 8(a)(1) of the Act, I shall recommend that it cease and desist therefrom and take certain affirmative action designed to effectuate the policies of the Act.

Upon the basis of the foregoing findings of fact and upon the entire record in the case, I make the following:

CONCLUSIONS OF LAW

1. American Greetings Corporation is an employer within the meaning of Section 2(2) of the Act and is engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

2. International Brotherhood of Pulp, Sulphite and Papermill Workers, AFL-CIO, is a labor organization within the meaning of Section 2(5) of the Act.

3. By interfering with, restraining, and coercing employees in the exercise of their rights guaranteed by Section 7 of the Act the Respondent has engaged in unfair labor practices within the meaning of Section 8(a)(1) of the Act.

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

5. All allegations of the complaint as to which findings of violation have not been made have not been sustained.

[Recommended Order omitted from publication.]

Harris-Hub Company, Inc. and Martin P. Steffan. *Case No. 13-CA-5161. April 24, 1963*

DECISION AND ORDER

On February 13, 1963, Trial Examiner James F. Foley issued his Intermediate Report in the above-entitled proceeding, finding that Respondent had not engaged in the unfair labor practices alleged in the complaint and recommending that the complaint be dismissed in its entirety, as set forth in the copy of the attached Intermediate Report. Thereafter, the General Counsel filed exceptions to the Intermediate Report and 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 Leedom].

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 entire record in this case, including the Intermediate Report, the exceptions and brief, and hereby adopts the findings,¹ conclusions, and recommendations of the Trial Examiner.

[The Board dismissed the complaint.]

¹ The Trial Examiner on page 289 of the report stated erroneously that the charge filed by Steffan on August 6, 1962, was dismissed on September 22, 1962. The parties stipulated that the charge was withdrawn on September 26, 1962. Also, on page 290, the Trial Examiner inadvertently attributed certain testimony to Harris instead of Jennings.