

Local Union No. 68, Wood, Wire and Metal Lathers International Union, AFL-CIO and Acoustics & Specialties, Inc.

Local Union No. 68, Wood, Wire and Metal Lathers International Union, AFL-CIO and Construction Specialties Company. Cases Nos. 27-CD-35 and 27-CD-37. June 10, 1963

DECISION AND DETERMINATION OF DISPUTE

This is a proceeding under Section 10(k) of the Act, following charges filed by Acoustics & Specialities, Inc., herein called Acoustics, and by Construction Specialties Co., herein called Construction Specialties, alleging that Local Union No. 68, Wood, Wire and Metal Lathers International Union, AFL-CIO, herein called Lathers Local 68 or Respondent, had induced and encouraged employees to strike for the purpose of forcing or requiring Acoustics and Construction Specialties to assign particular work to members of the Respondent rather than to members of United Brotherhood of Carpenters and Joiners of America, Local Union No. 55, AFL-CIO, herein called Carpenters Local 55. A hearing was held before Raymond A. Jacobson, hearing officer, on June 4 and 28, 1962. All parties who appeared at the hearing¹ were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to adduce evidence bearing on the issues. The rulings of the hearing officer made at the hearing are free from prejudicial error and are hereby affirmed. Briefs filed by Respondent and jointly by the Employers and Carpenters Local 55 have been duly considered.

Upon the entire record in this case, the Board makes the following findings:

1. Acoustics & Specialties, Inc., a Colorado corporation, is in the business of installing acoustical ceilings. During the 1961 calendar year Acoustics purchased materials, such as ceiling tile, adhesive, etc., in excess of the sum of \$50,000 per annum from sources outside the State of Colorado. During the same year Acoustics performed services exceeding \$50,000 in value for firms in interstate commerce.

Construction Specialties Company, a Colorado corporation, is engaged in the acoustical tile business. During the 1961 calendar year Construction Specialties purchased materials from sources outside the State of Colorado which cost in excess of \$50,000. During the same year Construction Specialties performed services in an amount exceeding \$50,000 for firms engaged in interstate commerce.

¹ Northern Colorado Building and Construction Trades Council and Colorado State Council of Carpenters of the United Brotherhood of Carpenters and Joiners of America, AFL-CIO, intervened on the side of the Respondent. Sheet Metal Workers International Association, Local No. 9, intervened, but neither participated in the hearing nor filed a brief.

We find that Acoustics & Specialties, Inc., and Construction Specialties Company, herein jointly referred to as the Employers, are engaged in commerce within the meaning of the Act and that it will effectuate the policies of the Act to assert jurisdiction in this proceeding.

2. The parties stipulated, and we find, that Lathers Local 68 and Carpenters Local 55 are labor organizations within the meaning of Section 2(5) of the Act.

3. The dispute:

Facts

The Employers both contracted to install acoustical ceilings of the backerboard type. The work involved, which is the work in dispute in this proceeding, included the following: the installation of vertical hanger wires attached in parallel rows to the concrete slab, wood joint, or other structure forming the underside of the floor above; the attaching of 1½-inch iron channel in horizontal parallel rows by binding the lower ends of the hanger wire around the channel bars; the attaching of nailing bars by wire saddle ties at right angles to the channel bars in horizontal parallel rows; and, finally, the attaching of backerboard to the nailing bars by mean of angular nails. All the parties agree that the work of attaching acoustical material other than plaster to the backerboard is carpenter work.

Beginning April 5, 1962, Acoustics, as subcontractor, began installing acoustical ceilings in the Bear Creek School in Jefferson County, Colorado. On April 11, 1962, the business agent of Lathers Local 68 called Acoustics and complained about the assignment of certain work to Acoustics' employees who were members of Carpenters Local 55. The Lathers Local 68 representative stated that the work of installing hanger wires and 1½-inch black iron channel should be assigned to lathers rather than to carpenters, especially in view of a statewide agreement between the Carpenters and Lathers Internationals that such work should be assigned to lathers in order to end jurisdictional disputes between the two unions. Acoustics replied that it was not a party to such agreement and was not bound by it. On April 12, 1962, pickets appeared at the job site carrying signs stating: "Acoustics and Specialties substandard wages and conditions, Lathers Local 68." Picketing continued on April 13 and 16, at which time the general contractor ordered Acoustics off the job temporarily. Thereafter Acoustics returned to the job without further picketing resulting.

Construction Specialties Company was subcontractor for the installation of acoustical ceilings at the Colorado State Mental Complex, Fort Logan, Colorado. Although the record does not indicate that Lathers Local 68 specifically demanded the work in dispute, pickets carrying signs reading "Construction Specialties Co. substandard wages and conditions, Lathers Local No. 68" appeared at the jobsite on May 15, 1962, and reappeared on May 25, 28, and 29, carry-

ing the same signs. Members of other crafts refused to cross the picket line. Subsequently work at the project resumed with no further picketing.

Although both contractors regularly employ on a full-time basis carpenters who are members of Carpenters Local 55, neither contractor has a collective-bargaining agreement with that labor organization on behalf of its carpenter employees. Neither union has been certified as bargaining representative of employees performing the dispute work.

Contentions of the Parties

The Employers and Carpenters Local 55 jointly contend that the assignment of the work in dispute to carpenters was the correct one since carpenters have the requisite skill, are cheaper to employ, and have been chosen by the Employers to do the work. They further contend that the Carpenters-Lathers agreement, referred to hereinafter, cannot be determinative because the Employers were not parties to the agreement and the practice in the Denver, Colorado, area is for carpenters to perform the work in dispute.

Lathers Local 68 contends that there is no jurisdictional dispute within the meaning of Sections 8(b)(4)(D) and 10(k) of the Act as there is in effect an agreement which adjusts the dispute. Lathers Local 68 further contends that, if there is such a dispute, the work in question should be assigned to lathers on the basis of historical practice, the agreement between the unions discussed below, and the training and skill of the competing groups in performing the work. These contentions, in large part, rest upon the "Interim Agreement" entered into on January 6, 1962, by representatives of the Carpenters and Lathers International Unions at the direction of the presidents of the Internationals. The agreement attempts to settle the long-standing jurisdictional dispute between the unions relating to the installation of acoustical ceilings by assigning all the work of installing the backerboard system, except the installation of the acoustical tile itself, to lathers while assigning the entire grid system installation of acoustical ceilings to carpenters. It therefore assigns certain work on the backerboard system which had customarily been performed by carpenters to lathers while, as a *quid pro quo*, assigning what had been lathers' work on the grid system to carpenters. The agreement states that:

It is the purpose of this agreement to improve relations between the organizations, eliminate work stoppages, settle jurisdictional disputes directly between the two organizations, and mutually to assist each organization to secure work coming within its recognized jurisdiction.

The agreement was approved by Lathers Local 68 and by District Council of Carpenters of which Local 55 is a member. Carpenters Local 55 representatives constitute a majority of the members of the District Council and two of the business agents of Local 55 were present during the negotiations leading to the agreement.

Applicability of the Statute

Before the Board may proceed to a determination of dispute pursuant to Section 10(k) of the Act, it must be satisfied that there is reasonable cause to believe that Section 8(b)(4)(D) has been violated.

The record shows that Respondent picketed both the Bear Creek School and the Colorado State Mental Complex jobs with an avowed object of forcing or requiring the assignment of certain work to its members rather than to members of Carpenters Local 55 who were then performing the work. Work stoppages occurred as a result of the picketing.

Respondent contends that the Board is precluded from making a determination of the dispute because of the agreement between the Carpenters and Lathers Union pertaining to the dispute. However, the parties agree that the Employers never agreed to be bound by, nor have they adhered to, the terms of the Carpenters-Lathers agreement.

In *Local Union 825, International Union of Operating Engineers, AFL-CIO (Schwerman Co. of Pa., Inc.)*, 139 NLRB 1426, the Board decided that an interunion agreement settling a jurisdictional dispute to which the employer was not a party was not dispositive of a jurisdictional dispute under Section 10(k) of the Act. Accordingly, we find Respondent's contentions without merit.

On the basis of the entire record, we find that there is reasonable cause to believe that a violation of Section 8(b)(4)(D) has occurred, and that the dispute is properly before the Board for determination under Section 10(k) of the Act.

Merits of the Dispute

In determining a dispute such as this, the points urged by the parties may be helpful in reviewing the evidence supporting the claims of the parties.

1. *Assignment of the contractors who performed the work:* Both Acoustics and Construction Specialties used carpenters exclusively to perform the work in dispute. However, this assignment is not indicative of the Employers' general practice. The record indicates that prior to the Carpenters-Lathers agreement the Employers used carpenters on "small" jobs, but lathers on "large" jobs. Since the

agreement the Employers have refused to hire lathers. The Employers also indicated that they used carpenters because it was less costly than to employ lathers.

2. *Skill and training of the competing groups:* Throughout the hearing the Employers maintained that their "regular" employees were the *only* group sufficiently skilled to perform the work in dispute satisfactorily. They stated that it took a number of months to train a carpenter to perform this work, the length of time depending on the individual employee. They insisted that lathers supplied to them by the Respondent were not as skilled as their "regular" employees, although the manager of the acoustical department of Construction Specialties admitted that the skill of a newly hired lather was greater than that of a newly hired carpenter and that when he hired lathers they did not displace his "regular" employees. In addition, Respondent as part of its regular apprenticeship program gives training in the installation of suspended ceilings of the backerboard type; the Carpenters Union has no such program. Accordingly, it would appear that the Employers' contention that carpenters are better qualified to perform the disputed work in reality is merely a claim that their permanent employees, who happen to be members of Local 55 of the Carpenters Union, are better qualified than lathers to perform such work.

3. *Area practice:* The representative of Acoustics testified that 53 percent of the iron channel was installed by lathers and 47 percent by carpenters. The representative of Construction Specialties who testified did not know the exact amount of iron channel installed by his company or the percentage installed by the competing crafts, but indicated that those percentages would probably be very similar to those of Acoustics.

4. *Agreement between the competing unions:* Respondent and Colorado State Council of Carpenters, the parent body of Carpenters Local 55, contend that, if there is a jurisdictional dispute, the agreement between the Lathers and Carpenters Unions on a statewide basis, which in effect divides the work between the competing groups, should be the controlling factor in a situation such as the instant one.

The dispute between the two unions regarding the installation of the backerboard system of suspended ceilings is of long standing. Various efforts have been made to resolve the difficulty, and in 1959 the International Unions tried to draw up an agreement which would settle the dispute permanently. This attempt failed, in part, apparently because of unusual practices in some geographic areas which were not specified in the record. However, in lieu of a single nationwide agreement, the Internationals decided to attempt, where possible, to draw up area agreements, which would reflect the basic agreement between the unions as to how the disputed work was to be divided. Colorado was one area where such an agreement was negotiated. Ac-

ording to this agreement, the disputed work was to be performed by lathers.

Employers argue that no effect should be given to the agreement because it was negotiated without the approval of the locals immediately involved. This contention is without merit. The record indicates that, although the Carpenters-Lathers agreement was negotiated by international representatives of the two unions, the interests of the locals most directly concerned were continuously represented. Lathers Local 68 ratified the agreement and representatives of Local 55 of the Carpenters participated directly in the negotiations leading to signing of the agreement. Further, as noted earlier, representatives of Local 55 constitute a majority of the membership of the Carpenters State Council which also ratified the agreement. Therefore, although the membership of Local 55 did not directly vote on the agreement at any time, its representatives were fully cognizant of the agreement and did not at any time prior to its adoption voice their disapproval.

Conclusions as to the Merits of the Dispute

In *International Association of Machinists (J. A. Jones Construction Company)*, 135 NLRB 1402, the Board set forth the following criteria to be considered in the making of an affirmative award under the *CBS* decision:²

The Board will consider all relevant factors in determining who is entitled to the work in dispute, e.g., the skills and work involved, certifications by the Board, company and industry practice, *agreements between unions* and between employers and unions, awards of arbitrators, joint boards and the AFL-CIO in the same or related cases, the assignment made by the employer, and the efficient operation of the employer's business. [Emphasis supplied.]

Although there is some dispute between the parties as to the skills possessed by the competing groups, Respondent relies basically upon the Carpenters-Lathers agreement regarding the division of the work, whereas the Employers and Local 55 place their main emphasis upon the assignment made by the Employers and their judgment as to the most efficient method of operation of their businesses. However, the Board in fulfilling the functions assigned to it under Section 10(k) must act very much like an arbitrator, balancing all of the interests involved and aiming at a solution which will, in its judgment, finally resolve the dispute. The instant dispute between carpenters and lathers has been before the Board on two other occasions,³ and we are

² *N.L.R.B. v. Radio & Television Broadcast Engineers Union Local 1212, etc. (Columbia Broadcasting System)*, 364 U.S. 573.

³ *United Brotherhood of Carpenters and Joiners of America, AFL-CIO, Local 1622 (O. R. Karst)*, 139 NLRB 591; and *Wood, Wire & Metal Lathers International Union, Local No. 328, AFL-CIO (Acoustics & Specialties, Inc.)*, 139 NLRB 598

well aware of the problems involved. In attempting to resolve this dispute, individual interests in a particular case may have to be subordinated to a practical and effective solution of the overall problem.

As noted earlier the Carpenters-Lathers agreement is an attempt by the unions to eliminate jurisdictional disputes between them. Like all compromises it satisfies neither side completely, but is an attempt to replace the picket line by the bargaining table. That this solution may discommode an individual union member or cause an employer to divide his work between the various crafts differently than before the agreement cannot be gainsaid.

In the instant case the criteria which have been determinative in most of the jurisdictional dispute cases which we have decided are not present. The Employers do not have collective-bargaining agreements with either union; neither union is the certified bargaining representative of the Employers' employees; the skills involved are at least in part possessed by the members of both unions; company and area practice, at least prior to the Carpenter-Lathers agreement, is split almost evenly; and, apparently, efficiency of operation is not materially affected since the Employers have regularly used members of both unions to perform the disputed work. In this state of balance, we consider it appropriate to give effect to the agreement between the two Internationals settling their jurisdictional dispute. By so doing the Board will be encouraging unions to settle such disputes by agreement, a desirable policy. In making this determination, we are assigning the disputed work to lathers, who are represented by Lathers Local 68, but not to Lathers Local 68 or its members.⁴

⁴ Member Rodgers would assign the disputed work to carpenters rather than to lathers on the basis of the following factors: training and skill of employees, area practice, and the Employer's assignment of the disputed work. He would not give controlling, or indeed any significant weight, so far as we can perceive, to the Carpenters-Lathers agreement. We too have considered the factors referred to by Member Rodgers. But we have also taken into account the fact that the present dispute is representative of a large number of similar disputes which have existed over many years and in many places in the United States, and that the Carpenters-Lathers agreement represents an attempt by compromise to resolve these disputes, at least in the State of Colorado, for the present and the future, on a fair and equitable basis. We think that this is an important circumstance to be considered in making a jurisdictional dispute award.

An employer's assignment of the disputed work cannot be in all cases the controlling factor in determining jurisdictional disputes. To make this the touchstone for such dispute determinations would constitute a reversion to Board practice explicitly rejected by the Supreme Court in the *CBS* decision. (*N.L.R.B. v. Radio & Television Broadcast Engineers Union Local 1212, etc. (Columbia Broadcasting System)*, 384 U.S. 573.) Nor can efficiency alone always be the determinant. Employers "normally select and assign their own individual employees according to their best judgment." (*Id.* at p. 582.) The Supreme Court recognized in the *CBS* case that the Board, under Section 10(k), must exercise powers which are "broad and lacking in rigid standards to govern their application." (*Id.* at p. 583.) However, it also said that with a knowledge of standards generally used by "arbitrators, unions, employers, joint board and others in wrestling with this problem" the Board could perform the task entrusted to it by Congress. (*Id.* at p. 583.) Applying this broad directive, we are convinced that the assignment of the disputed work to lathers rather than to carpenters is more in harmony with the purpose and scope of Section 10(k).

In view of the foregoing, we find that Respondent was entitled to demand the work in dispute since such work should properly be assigned to lathers.

DETERMINATION OF DISPUTE

On the basis of the foregoing findings, and the entire record in the case, the Board makes the following Determination of Dispute pursuant to Section 10(k) of the Act:

Employees engaged as lathers are entitled to the assignment of the work of installing acoustical ceilings of the backerboard type for Acoustics & Specialties, Inc., on its project at the Bear Creek School and for Construction Specialties Company on its project at the Colorado State Mental Complex.

MEMBER RODGERS, dissenting:

I do not agree that the disputed work in the instant case—the installation of “backerboard” acoustical ceilings—should be awarded to lathers. In my opinion, the majority has failed to follow in this case the standards and criteria which the Board established in prior cases for the resolution of jurisdictional disputes.⁵

The installation of a “backerboard” acoustical ceiling involves four steps or operations: (1) placing hanger wires in the overhead structure; (2) suspending 1½-inch black iron channel from the hanger wires; (3) attaching nailing channel to the black iron channel; and (4) nailing the “backerboard” to the nailing channel.⁶

The majority has found that under the Company and area practice the work has been “split almost evenly” between the competing groups. However, contrary to their finding, the record clearly shows that the area practice, as well as the practice of the Employers, is for carpenters to do the work involved in steps (3) and (4) of the installation process.⁷ On the other hand, the work involved in the first two steps has

⁵ See for example, *Internatioinal Association of Machinists (J. A. Jones Construction Company)*, 135 NLRB 1402.

⁶ The acoustical tile is then attached to the backerboard, but the work involved in this process is not in dispute here.

⁷ Thus Bernard Bump, an officer of Acoustics, testified that in the 25 years that he had been in business, carpenters have installed substantially all the nailing channel and backerboard in the Denver area; and that since 1953, all such work done by Acoustics has been performed, with rare exception, by carpenters. Bump's testimony concerning the practice in the Denver area was corroborated by: James Hult, Construction's acoustical department manager, who testified that in his 6 years in the business this work has always been performed by carpenters, and that 100 percent of Construction's nailing channel and backerboard work since 1955 has been done by carpenters; Frank Wishard, acoustical department manager for another Denver firm, who testified that since 1958, all of his firm's nailing channel and backerboard has been installed by carpenters, with but a few exceptions; Roy Bergh, joint representative of the United Brotherhood of Carpenters; Robert Lamping, president of the Carpenters District Council; and Anthony Mulligan, Respondent's business agent.

been performed by both lathers and carpenters, with the work having been rather evenly divided between them.⁸

Also contrary to the majority's finding, I do not believe that the record in this case supports the conclusion that the competing groups herein are equally skilled and trained in performing the disputed work. It may be quite true that either a lather or a carpenter, with the normal skills possessed by such tradesmen, could in theory be trained to install backerboard acoustical ceilings in the same amount of time and with the same amount and type of instruction. However, in determining disputes in these cases, I do not think the Board should accord decisive weight to the potential skills of tradesmen who are not involved in the case before the Board. Rather, I think the Board should evaluate the real skills and training of those competing for the work in dispute; and I believe that the Board must ascertain whether or not the employees to whom the work has been assigned are qualified to do the work. Here, as tacitly admitted by the majority, the group of employees presently engaged in performing the disputed work, the carpenters, would appear to be not only able to do the work competently, but also appear better qualified to do the work than the group which seeks to change the Employers' assignment.⁹

Nor do I believe the majority has given due weight to the efficient operation of the Employers' businesses. It appears from the record that it would cost the Employers more to employ lathers than carpenters, that there has been some difficulty in the past in obtaining lathers because of the small number of them in the area,¹⁰ and that, on a number of occasions, lathers had performed the disputed work in an unsatisfactory manner.

In view of the skill and training of the Employers' employees, the area practice, and the Employers' assignment of the disputed work, it is clear that the carpenters' claim to the work of installing the nailing channel and the backerboard is superior to that of the lathers. With respect to the installation of the hanger wires and black iron channel, taking into account the same factors, the most that can be said is that the lathers' claim is as good as the carpenters'. Thus, on bal-

⁸ For example, in the last 10 years, lathers have installed 53 percent of the total footage of black iron channel put up by Acoustics, and the carpenters 47 percent; and carpenters have done the work (black iron channel and hanger wires) on 64 percent of the contract jobs, and the lathers 36 percent. This apparent contradiction is accounted for by the fact that the Employers used lathers when they feared their failure to do so would result in a dispute, which usually involved the larger jobs.

⁹ I base this conclusion on the facts set forth above which show that both *before and after* the Carpenters-Lathers agreement of January 1962, the carpenters have had far greater training and experience in the disputed work than the lathers. In this regard, I additionally note that Anthony Mulligan, Respondent's business agent, testified that only about 5 percent of Respondent's members are employed in acoustical work in the course of a year, and that the average lather spends only a small portion of his time doing acoustical work.

¹⁰ There are only 145 men in the Lathers' local whereas there are about 2,800 men in the Carpenters' local.

ance, and considering the entire installation process as one operation, the case for the carpenters, in my opinion, is far more compelling.

In these circumstances, I am of the opinion that the Carpenters-Lathers agreement should not be the deciding, and in effect, controlling factor in this dispute, particularly where, as in the instant case, the parties to the agreement¹¹ have failed to abide by it.¹²

Accordingly, I would award the disputed work to carpenters employed by the Employers.¹³

MEMBER LEEDOM, dissenting:

I cannot agree with the majority that the Carpenters-Lathers agreement is entitled to controlling weight in the determination of this dispute, and that the work in dispute should therefore be assigned to lathers.

The work in dispute has been assigned by the Employers to carpenters who are their regular employees. These carpenters have the skills necessary to perform the disputed work; their employment is not inconsistent with past practices; and it appears to be more efficient and less costly for the Employers to utilize their carpenter-employees for the entire job than for them to hire lathers for the sole purpose of performing only a part of the work of installing acoustical ceilings. These factors all support the assignment of the work to the Employers' carpenter-employees.

On the other hand, and supporting an assignment to lathers, are the facts that lathers also have the necessary skills or can readily acquire them, and their employment would similarly not be inconsistent with past practices. The Carpenters-Lathers agreement also is a factor supporting such an assignment.

¹¹ In determining how much, if any, weight to accord such an agreement, I am not inclined to overlook, as the majority apparently has, the fact that the Employers herein were not parties to this agreement purporting to settle, at least in the State of Colorado, the long-standing dispute between the Carpenters Union and the Lathers Union. An employer is an interested and essential party to a jurisdictional dispute. I believe the majority has committed error in permitting this agreement to govern the disposition of this case, thereby imposing upon the Employers herein, the terms of an agreement which they had no part in negotiating and to which they were not parties. Further, it is even questionable whether Carpenters Local 55 was bound by this agreement in view of its failure to ratify it.

¹² I agree with the majority that encouraging the parties to settle their differences by voluntary agreement is a salutary policy. However, I do not believe it a proper function for the Board to enforce such agreement, which is exactly what the majority has done herein by making the agreement the controlling factor, when it appears that one of the parties to the agreement is flaunting it. *Tri-County Building and Construction Trades Council, etc. (The John G. Ruhlen Construction Company)*, 137 NLRB 1444; *Local 1, Bricklayers, Masons, and Plasterers International Union, et al. (Consolidated Engineering Co., Inc.)*, 141 NLRB 119

¹³ I do not see this as a case where there is validity to the claims advanced by all contending parties, and I believe it is clear from what I have said above that my decision to grant the work to the Carpenters is by no means based solely on the Employers' work assignment, as is implied in the majority decision. See my concurring opinion in the *Philadelphia Typographical Union Local No. 2 (Philadelphia Inquirer, etc.)* case, 142 NLRB 36.

In these circumstances, in my opinion, the ultimate determination of this dispute must rest on a balancing of the weight of the Employers' assignment to their regular carpenter-employees, and the efficiencies resulting therefrom, against the weight of the Carpenters-Lathers agreement. In this case, I think, the Employers' assignment weighs the heavier. I do not of course believe that an employer's assignment should be given controlling weight;¹⁴ but I do think it is entitled to substantial weight, and should govern the result in the absence of countervailing factors of greater weight. On the facts revealed by this record I cannot accord the Carpenters-Lathers agreement such greater weight, let alone controlling weight. I have no quarrel with the proposition that it is a desirable policy for the Board to encourage the settlement of jurisdictional disputes by agreement. It is obvious here, however, that the agreement was consummated without consultation with any interested employer representatives, either locally or nationally; and in addition, the Carpenters-Lathers agreement has, in fact, settled nothing.

Under all the circumstances, I would award the disputed work to the Employers' carpenter-employees. Consequently, I dissent from my colleagues' award of that work to lathers.

¹⁴ See my dissenting opinion in *Philadelphia Typographical Union, Local No. 2 (Philadelphia Inquirer, Division of Triangle Publications, Inc.)*, *supra*.

Arkansas-Louisiana Gas Company and Chauffeurs, Teamsters & Helpers, Local Union No. 878, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America. Case No. 26-CA-1279. June 11, 1963

DECISION AND ORDER

On November 21, 1962, Trial Examiner C. W. Whittemore issued his Intermediate Report herein, finding that the Respondent engaged in unfair labor practices and recommending that it cease and desist therefrom and take certain affirmative action, as set forth in the attached Intermediate Report. Thereafter, the Respondent filed exceptions to the Intermediate Report and a supporting brief. The General Counsel filed a brief in support of 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 [Chairman McCulloch and Members Rodgers and Leedom].

The Board has considered the Intermediate Report, the exceptions and briefs, and the entire record. The Board affirms the Trial Exam-