

WE WILL NOT in any like or related manner interfere with, restrain, or coerce our employees in the exercise of the rights guaranteed in Section 7 of the National Labor Relations Act.

All of our employees are free to become, remain, or refrain from becoming members of any labor organization of their own choosing, except in the event that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment, as authorized in Section 8(a)(3) of the Act, as amended by the Labor-Management Reporting and Disclosure Act of 1959.

COLNIT, INC., AND FASHIONIT TRIM, INC.,
Employer.

Dated _____ By _____
(Representative) (Title)

This notice must remain posted for 60 consecutive days from the date of posting, and must not be altered, defaced, or covered by any other material.

Employees may communicate directly with the Board's Regional Office, Sixth Floor, 707 North Calvert Street, Baltimore, Maryland, Telephone No. 752-8460, Extension 2100, if they have any questions concerning this notice or compliance with its provisions.

The Denver Photo-Engravers' Union No. 18, International Photo-Engravers Union of North America, AFL-CIO and The Denver Publishing Company and Denver Typographical Union, Local No. 49, International Typographical Union, AFL-CIO. Case No. 27-CD-39. November 7, 1963

DECISION AND DETERMINATION OF DISPUTE

This is a proceeding pursuant to Section 10(k) of the Act following a charge filed by The Denver Publishing Company, herein called the Employer, alleging that The Denver Photo-Engravers' Union No. 18, International Photo-Engravers Union of North America, AFL-CIO, herein called the Respondent, had threatened to picket and/or strike the Employer with an object of forcing or requiring the Employer to assign particular work in connection with the operation of photo-composition machines and equipment to its member-employees rather than to member-employees of Denver Typographical Union, Local No. 49, International Typographical Union, AFL-CIO, herein called the ITU, to whom the Employer has assigned the work in dispute, and who are now performing the work.

A hearing was held before Hearing Officer Allison E. Nutt on February 26 and 27, 1963. All parties appeared at the hearing and 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. The Employer, the Respondent, and the ITU have filed briefs herein which have been duly considered.¹

¹The request for oral argument made by The Denver Photo-Engravers' Union No. 18 and International Photo-Engravers' Union of North America, AFL-CIO, is hereby denied as, in our opinion, the record and briefs adequately present the positions of the parties.

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

1. The business of the Employer

The Employer publishes The Rocky Mountain News, a Scripps-Howard daily newspaper with circulation of about 200,000 in Colorado and adjoining States. It subscribes to and holds membership in interstate news services, advertises nationally sold products, and has an annual gross business of more than \$200,000. The Board's jurisdiction over the Employer is not contested. We find that the Employer is engaged in commerce within the meaning of the Act and that it will effectuate the purposes of the Act to assert jurisdiction herein.

2. The labor organizations in volved

Respondent and ITU are labor organizations within the meaning of Section 2(5) of the Act.

3. The dispute

A. *Basic facts*

The dispute herein arises out of the Employer's purchase of a Kenro camera and the assignment of its operation to its typographers represented by the ITU.

Previous to November 2, 1962, all advertising proofs were produced by the Employer by the traditional or "hot-type" process in which lines of print or slugs are cast in molten metal on a linotype machine operated by a typographer. The Linotype, however, is limited to the production of letter print in standard sizes. When letter print of unusual size is required in the hot-metal process, it is produced on a Ludlow or Monotype which, like the Linotype, are metal casting devices operated by typographers. Other components of an advertisement such as illustrations, half tones, or type reverses, which cannot be produced by Linotype, Ludlow, or other typecasting machines, are furnished by photoengravers represented by Respondent who make zinc plates for such purposes, using the photoengraving process. Before making these plates, photoengravers make Velox prints of such inserts for customer approval when required. The plates made by the photoengravers are returned to the composing room where a typographer assembles them, along with other components of the ad, in an ad makeup frame known as a "chase" or "galley." The chase is then locked up and sent to a proof press where a typographer runs a print of the advertisement as it will appear in the newspaper. After approval of the proof by the advertiser, the chase is set in a page form and readied for printing by stereotypers who make a matrix and cast cylindrical plates for the printing presses.

Since November 2, a new method, phototypesetting, has been employed by the Employer. This new method, called "cold-type process," does not utilize a Linotype, Ludlow, or other typesetting machine. A phototypesetting machine known as a Fotosetter substitutes for the Linotype. Instead of casting metal slugs, it produces a photographic substitute known as a paper-positive or photo-positive, which is simply a photograph of a line of type. Other components of a display advertisement, such as line and halftone material and type reverses, which are produced by zinc plates in the hot-type process, are in the form of Velox prints in the cold-type process. Velox prints are produced by the Kenro camera. The Kenro camera also produces unusual type sizes for display ads, such as were formerly produced by the Ludlow machine under the hot-type process. In this cold-type process, instead of assembling ad components in the form of metal type and zinc plates, the assembly consists of a "pasteup," in which the paper components are pasted onto a large sheet of paper or cardboard with special adhesives. The pasteup is then photographed by the Kenro camera, which produces a paper offset plate from which a proof of the complete ad is made on an offset proof press for submission to the advertiser. After approval, the pasted up copy is sent to the photoengraving department to be reproduced on a metal plate for eventual printing in the newspaper. Both hot-type and cold-type methods are utilized in preparing advertising proofs for the Employer's newspaper. The decision as to which will be used for a particular ad is made by the ad room foreman (a typographer) or by his assistant.

As already noted, the Employer assigned the operation of the Kenro camera to the typographers. It notified both Respondent and the ITU of its intention to make this assignment in August 1962. Respondent immediately asserted the right of its members to operate the Kenro camera. In October, its attorney reasserted Respondent's claim to the work in a letter which threatened ". . . any necessary action . . ." to enforce its contract. On November 2, when typographers produced the first work on the Kenro camera, Respondent's members refused to handle it but, after a 15-minute work stoppage, resumed work under protest. On December 19, Respondent's attorney threatened to picket over the work assignment, and the Employer filed the charge herein.

B. Contentions of the parties

The work in dispute between Respondent and the ITU, as defined in the Respondent's brief, consists of "the operation of the Kenro camera and the work processes involved in the use of that camera to enlarge or reduce the size of the photo-positives made by the Fotosetter, to

make type reverses, to make screened Velox prints, to make negatives for paper offset plates and to produce paper offset plates." Respondent contends that its contract with the Employer in effect at the time of the work assignment in question entitled its members to the work in dispute. It also contends that the nature of the Kenro work products and the training, skills, and experience required therefor fall within the special and traditional art of the photoengraver's, rather than the typographer's, trade.

The Employer contends that the new process is an integral part of composing-room operations, and that it will eventually embrace the work of typographers, while increasing the workload of photoengravers. It further cites, in support of its assignment, the location of the new equipment in the composing room, custom and practice at other newspapers which use the Kenro camera, and the requirements of its contract with the ITU.

The position of the ITU corresponds to that of the Employer. In addition, the ITU contends that the operation of the Kenro camera is within its traditional work jurisdiction.

C. *Applicability of the statute*

The charge alleges a violation of 8(b)(4)(D). The record indicates, and Respondent does not deny, that: by letter dated October 25, Respondent's attorney asserted a claim for the work on behalf of Respondent's memers and threatened ". . . any necessary action . . ." to enforce this claim; on November 2, when ITU members produced the first work on the new equipment, Respondent's members refused to handle the ITU copy and, after a 15-minute stoppage, resumed work under protest; and on December 19 Respondent's attorney threatened to picket because of the work assignment.

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.

D. *Merits of the dispute*

Section 10(k) of the Act requires the Board to make an affirmative award of disputed work, after giving due consideration to various factors. The factors discussed below are asserted in support of the claims of the parties:

The Unions rely upon their respective collective-bargaining agreements with the Employer to support their claims to the disputed work. Upon examination and analysis of the pertinent provisions of the two contracts, both of which antedate the introduction of the

photocomposition equipment, including the Kenro camera, we conclude that neither contract expressly covers the work in dispute.

The record clearly indicates that either typographers or photoengravers may, with a brief period of training, operate the Kenro camera satisfactorily. The camera is located in the composing room where the assistant foreman determines whether the hot metal or cold metal method will be utilized in preparing proofs of any particular advertisement, and composing room employees interchange freely between the two processes. Were the operation of the camera to be assigned to the photoengravers, changes in plant layout would be necessary since there is a walking distance of 100 to 150 feet between the photoengraving department and the photocomposition layout where the Kenro camera has been installed. Also, interchangeability of composing room employees between the two processes tends, in our opinion, to make for greater efficiency than might be achieved under an assignment of this work, at its present location or elsewhere, to employees whose skills embrace only one of the two possible methods of operation.

Since the Kenro camera has never been used by the Employer previous to the installation which gave rise to this dispute, there is no company practice antedating November 2, 1962, which would be relevant to a jurisdictional award. There is uncontradicted testimony, however, that at each newspaper plant studied by the Employer during the time in which it was considering the introduction of the new processes which included the Kenro camera, it was found that such operations had been assigned to typographers represented by the ITU. Respondent cited no instance in which such operations had been assigned to its members. The Employer's assignment of this work, therefore, appears to conform to practice in the industry.

Of course, an award to either contestant here would inevitably inflict a loss of function upon the unsuccessful contestant. However, it appears that an award of the new camera work to the typographers will cost the photoengravers no jobs, since the new process augments their overall workload as indicated above, whereas award of the disputed work to the photoengravers may, conceivably, eventually eliminate some typographers' jobs. At the present time, it is doubtful that an award to either would jeopardize a single job of either craft, since the record indicates that operation of the Kenro camera involves approximately 2 minutes of a typographer's time every 2 or 3 days.

Conclusions as to the Merits of the Dispute

Weighing the pertinent factors considered above, we believe that the typographers are entitled to the work in dispute in the circum-

stances of this case. Such factors as the Employer's award of work to the typographers, the fact that these employees are sufficiently skilled to perform the work and have performed it to the satisfaction of the Employer, who desires to retain them on the job, the consistency of the work assignment with custom and practice in the industry and with the terms of the Employer's contract with ITU, the comparative economy and efficiency of operations, and the fact that jobs available to photoengravers will tend to increase under the prevailing assignment whereas jobs for typographers could contract under a contrary assignment, demonstrate the superior claim of the typographers to the disputed work. We conclude, therefore, on the basis of the record before us, that the assignment of the disputed work by the Employer to the typographers should not be disturbed. We shall, accordingly, determine the existing jurisdictional dispute by deciding that typographers rather than photoengravers are entitled to the work in dispute. In making this determination, we are assigning the disputed work to the employees of the Employer who are represented by the ITU but not to that Union or its members.

DETERMINATION OF DISPUTE

Upon the basis of the foregoing findings and the entire record in this proceeding, the Board makes the following determination of dispute, pursuant to Section 10(k) of the Act:

1. Typographers employed by the Employer, who are represented by Denver Typographical Union, Local No. 49, International Typographical Union, AFL-CIO, are entitled to perform the work of operating the Kenro camera in the Employer's composing room.

2. The Denver Photo-Engravers' Union No. 18, International Photo-Engravers Union of North America, AFL-CIO, is not entitled, by means proscribed by Section 8(b)(4)(d) of the Act, to force or require the Employer to assign the above work to photoengravers who are represented by it.

3. Within 10 days from the date of the Decision and Determination of Dispute, The Denver Photo-Engravers' Union No. 18, International Photo-Engravers Union of North America, AFL-CIO, shall notify the Regional Director for the Twenty-seventh Region, in writing, whether or not it will refrain from forcing or requiring the Employer by means proscribed by Section 8(b)(4)(D), to assign the work in dispute to photoengravers rather than to typographers.

MEMBERS LEEDOM and JENKINS took no part in the consideration of the above Decision and Determination of Dispute.