

Clark-O'Neill, Inc., Clark-O'Neill List Maintenance Corp., Clark-O'Neill Service Corp. and District 65, Retail, Wholesale and Department Store Union, AFL-CIO, Petitioner. *Case No. 22-RC-2063. June 9, 1964*

DECISION ON REVIEW

On July 31, 1963, the Regional Director for the Twenty-second Region issued a Decision and Direction of Election in the above-entitled proceeding. As the Regional Director broadened the unit sought by the Petitioner by including mail sorters, he conditioned his Direction of Election upon the Petitioner's demonstrating, within 10 days from the date of issuance of his Decision, that it had an adequate showing of interest in the broader unit found appropriate. The Petitioner was also given the option, if it did not wish to participate in an election in the unit found appropriate, of withdrawing its petition upon written notice to the Regional Director within the same 10-day period. Thereafter, on August 13, 1963, no adequate showing of interest in the broader unit having been submitted within the allowed period, the Regional Director issued a Supplemental Decision and Order in which he vacated his Direction of Election and dismissed the petition. On the same day, the Petitioner, in accordance with Section 102.67 of the Board's Rules and Regulations, as amended, filed with the Board a timely request for review of the Regional Director's Decision and Direction of Election, asserting, *inter alia*, that substantial questions of fact and policy were raised by the decision to include mail sorters in the requested unit of production and maintenance employees. The Employer filed a memorandum in opposition thereto. The Petitioner also filed a timely request for review of the Regional Director's Supplemental Decision and Order, contending that, in view of its timely request for review of the inclusion of the sorters in the unit, the Regional Director erred in dismissing the petition. The Petitioner requested a stay of all proceedings and in the event of denial of review, or affirmance of the Regional Director's decision, an opportunity to show interest in the broader unit. The Employer filed a supplemental memorandum of opposition. The Board, by telegraphic Order dated November 22, 1963, granted the requests for review.¹ Both the Petitioner and the Employer filed briefs on review.

After consideration of the entire record in this case with respect to the Regional Director's determinations under review, including the briefs of the parties, we have concluded that the Employer's mail sorters have substantial interests in common with other employees

¹ The Board subsequently denied the Employer's telegraphic request for reconsideration of the order granting review as raising no matter not previously considered.

sought to be represented and that the interests which the sorters share apart from such other employees are not sufficient to warrant excluding them from the appropriate unit.² We therefore affirm the Regional Director's Decision and Direction of Election, which is attached hereto.

In view of such action, we hereby grant the Petitioner 10 days from the date of issuance of this Decision on Review in which to demonstrate to the Regional Director that it has an adequate showing of interest in the appropriate unit. In the event that an adequate showing is made, the Regional Director shall vacate his Supplemental Decision and Order and conduct an election pursuant to his Decision and Direction of Election, except that the payroll period for determining eligibility shall be that immediately preceding the date of this Decision.

MEMBERS BROWN and JENKINS, dissenting in part:

The Petitioner seeks an election in a unit of some 295 production employees employed by Clark-O'Neill Service Corp., Clark-O'Neill, Inc., and Clark-O'Neill List Maintenance Corp. However, the Regional Director and our colleagues find, in effect, that the only appropriate unit is one which includes some 215 mail sorters, 210 of whom are part-time employees employed by a fourth corporation, Clark-O'Neill Mail Sorting Corp. We disagree, and would find that the mail sorters have interests separate from those of the other employees and, therefore, that the unit requested by Petitioner is appropriate.

This case completes a full circle with respect to the treatment of part-time employees. Until 1955, part-time employees would be included in the unit whenever their work was functionally related to that of the other employees, but eligibility to vote was determined separately on the basis of the substantiality of interest of the part-time employees. In *Sears Roebuck & Co.*, 112 NLRB 559, 569, footnote 28, the Board announced for the first time that voting eligibility is coextensive with unit inclusion. While the equities of such a policy are apparent, it also sometimes results in part-time employees controlling the results of elections contrary to the wishes of a majority of those employees who devote full time to such work. This occurs

² Other findings of the Regional Director which were the subject of the Petitioner's request for review are supported by the record.

Our dissenting colleagues emphasize a number of differences in working conditions between the mail sorters, whom the Union would exclude from the unit, and the so-called "production" employees, whom it seeks to include. These differences, however, stem not from their classification as sorters, but from the fact that most sorters are part-time employees. The Union has not sought in this case to exclude part-time employees from the unit, and in fact more than one-third of the employees whom it seeks to represent are part-time employees receiving the same benefits as the sorters. For this reason, whatever might be the merits of our dissenting colleagues' views as to the inclusion of part-time employees in units of full-time employees, the facts of this case afford no basis for such a distinction. Nor do we consider it controlling as to their unit placement that the sorters perform an operation which the Employer might, at greater expense, have had performed by someone else, in this case the Post Office Department.

even though part-time employees are usually only a minority of the unit. In this case the inclusion of 215 mail sorters, 210 of whom are part-time employees, in a unit of production workers (184 regular—111 part-time) achieves an incongruous unit of 321 part-time employees and 189 full-time. The fact that a majority of the part-time employees work full time elsewhere and are represented by another collective-bargaining representative merely emphasizes the distortion in this case. While the broad question of unit placement of part-time employees may warrant exploration, the exclusion of the mail sorters here would result in an appropriate unit.

The regular work performed by the mail sorters differs from that performed by the production employees. Thus, the production employees insert, fold, address, and prepare mailing lists, and perform other similar work in the Employer's direct mail operation. The mail sorters, when in the sorting and zoning room, perform only the normal post office function of sorting and zoning the mail immediately before it is delivered to the United States Post Office which is located adjacent to the Employer's sorting and zoning room. Indeed, there are two doors from the sorting and zoning room leading directly into the post office. Normally, post office employees would do the sorting and zoning. However, the Employer's mail sorters perform this function to obtain a cheaper postal rate. Substantially all of these mail sorters are regularly employed as United States Government postal employees and work only part time for the Employer.³

In addition, the sorters, for the most part, work in a room physically separate from the rest of the plant. Although the mail sorters may be assigned to the various production departments for periods of time, it appears that the production employees are rarely assigned to work in the sorting room, and do not perform that work normally assigned to the mail sorters. The mail sorters have their own immediate supervision and their own timeclock which is located in the sorting room. The sorters work part time on a three-shift schedule for an average of 20 hours per week, but the total hours vary from week to week. Full-time production employees work on a regular time schedule and have only one scheduled shift.

It also appears that the skills of the mail sorters are different from the other employees; they receive a higher starting rate of pay than some of the production employees, and are listed on a separate payroll. The mail sorters are paid on an hourly basis, whereas other employees are paid on an hourly basis with a number receiving piece rate or incentive pay which the sorters do not get. In addition, the 210 mail sorters are also treated differently from the full-time pro-

³ A few of the sorters and zoners are regularly employed as municipal firemen and policemen; they, like the other sorters, work only part time for the Employer. The majority of the production employees herein sought by the Union are employed full time by the Employer.

duction employees in that the latter are paid overtime rates after 40 hours work per week, while the mail sorters receive overtime pay after 20 hours work; the full-time production employees receive double-time pay for work on Sundays and holidays, and the mail sorters receive time and a half for work on those days; and to qualify for holiday pay, the mail sorters need work only 1 hour before and 1 hour after the holiday, while the full-time production employees must work the full day before and the day after the holiday.

Still other facts reveal separate interests and conditions of employment between those employees herein sought and the mail sorters. Thus, the part-time mail sorters receive no sick leave and have no insurance plan or lunch breaks, while the full-time production employees receive sick leave, do have an insurance plan, and have regularly scheduled lunch breaks. On the other hand, the mail sorters have clearly defined coffee breaks, and the production employees have none. In addition to these differences in working conditions, the Employer sponsors a club for all production employees, but has excluded the mail sorters from this benefit.

Finally, in determining that the mail sorters need not be included in the production unit, we also note that the Employer has treated separately with the mail sorters, apart from its other employees, and thus has recognized their disparate community of interests. It appears, in this connection, that the Employer has entered into discussion of working conditions and the settlement of grievances with a committee of mail sorters. While we do not consider that the recognition accorded the committee of mail sorters constitutes a controlling history of bargaining for purposes of unit placement, we do consider such circumstances in combination with all of the other facts herein to warrant establishing a unit without the mail sorters. Accordingly, we would direct an election in Petitioner's proposed unit.

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed, a hearing was held before Hearing Officer Irwin P. Weiner of the National Labor Relations Board. The Hearing Officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, the Board has delegated its powers in connection with this case to Regional Director John J. Cuneo.

Upon the entire record in this case, the Regional Director finds:

1. The Employer herein is engaged in commerce within the meaning of the Act.
2. The labor organization involved claims to represent certain employees of these Employers.

3. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c) (1) and Section 2(6) and (7) of the Act.

4. The Petitioner seeks a unit of all employees of Clark-O'Neill Inc., Clark-O'Neill List Maintenance Corp. and Clark-O'Neill Service Corp.,¹ excluding all office clerical employees, IBM programmers, professional employees, guards, and supervisors as defined in the Act. The Employer, on the other hand, contends that such a unit is inappropriate and that the appropriate unit must be an overall unit which includes employees of Clark-O'Neill Mail Sorting Corp., who are classified as mail sorters. No union is seeking the more comprehensive unit, nor is any union seeking to represent only the employees of Clark-O'Neill Mail Sorting Corp. There is no history of collective bargaining with respect to any of the Employer's employees.²

Clark-O'Neill Inc. and its three wholly owned subsidiaries, Clark-O'Neill Service Corp., Clark-O'Neill List Maintenance Corp., and Clark-O'Neill Mail Sorting Corp., are all New Jersey corporations in the business of processing and distributing specialized direct mail advertising literature to physicians and allied professional persons. These corporations have common corporate officers who own all the stock in the parent corporation, Clark-O'Neill Inc., which in turn owns all the stock of the three subsidiary corporations. All four corporations occupy one building in Fairview, New Jersey, identified by a single sign as Clark-O'Neill Inc., and their operations within this building are separated only by walls or partitions.

The record reveals that John J. Owens is executive vice president in charge of personnel and labor relations for all corporations. Prospective employees for these four corporations fill out the same application form, are interviewed by Owens, and are hired and discharged by him. Although there are separate payrolls for these corporations, payroll numbers are assigned as each employee is hired without regard to the corporation upon which list he is to be placed, and all personnel and payroll records are maintained in one bookkeeping department. Thomas Coby is vice president of production for all four corporations and there is one manager in charge of the production of all the corporations.

On the basis of the foregoing, and upon the record as a whole, in view of their common officers, ownership, and control, functional and physical integration of operations, centralization of management, com-

¹ The Employer's name appears as amended at the hearing.

² The record reveals that since 1961 the Employer has entered into discussions concerning terms and conditions of employment, as well as the settlement of grievances with a committee of sorters. However, no contract has ever been executed and it is not clear that the Employer has recognized the sorters' committee as collective-bargaining representative of its sorters. Accordingly, such discussions and relations may not be regarded as establishing a controlling collective-bargaining history. See *Central Coat, Apron & Linen Service, Inc., et al.*, 126 NLRB 958; *Aerovox Corporation*, 93 NLRB 1101.

mon overall supervision, and labor relations policy, I conclude that Clark-O'Neill Inc., Clark-O'Neill Service Corp., Clark-O'Neill List Maintenance Corp., and Clark-O'Neill Mail Sorting Corp. operate as a single enterprise and constitute a single employer within the meaning of the Act.³

The employees of the composite corporations constituting the Employer herein are administratively divided as follows: Employees in the addressograph, folding, Chesire, shipping, warehouse, and office departments are carried on the Clark-O'Neill Inc. payroll; computer employees, programmers, keypunch operators, and so-called EAM employees are carried on the payroll of Clark-O'Neill Service Corp.; file clerks, addressograph employees, plate assemblers, graphotype operators, and employees working in the Pfizer room are carried on the payroll of Clark-O'Neill List Maintenance Corp.; and all mail sorters, the employees at issue herein, are on the payroll of Clark-O'Neill Mail Sorting Corp.

The processing of the mail advertising material constituting the service performed by the Employer commences with an order from an advertising agency or manufacturer. Various materials are drawn from stock for addressing in the addressograph or Chesire department according to previously determined mailing lists or various professional classifications. The materials are then delivered in bulk to the folding or insertograph department where they are assembled, collated, and placed in envelopes. From there the materials are sent to the postage metering or stamping department and thence to the sorters who segregate the mail as to its area of destination. From the sorters, the material is transmitted to the mailing and shipping departments where it is dispatched. Thus, the record indicates that this operation is essentially a continuous straight line flow of mail advertising materials through all of the four corporations.

Clark-O'Neill Inc. employs approximately 200 employees, of which 75 are employed part time; Clark-O'Neill List Maintenance Corp. has 70 employees, 30 of which are part time; Clark-O'Neill Service Corp. has 25 employees, approximately 6 of which are part time; and Clark-O'Neill Mail Sorting Corp. has 215 employees, of whom 210 are part time. All of the part-time employees mentioned above, irrespective of the corporation upon which payroll they are carried, regularly work approximately 20 hours per week. The employees of all four corporations, with the exception of salaried supervisors and Clark-O'Neill List Maintenance workers who receive an additional piece rate are hourly paid with wage rates commencing between \$1.25 to \$1.50 per hour and ranging, depending upon the nature of their work and

³ See *Hamilton Bros., Inc. and B & C Stevedoring Co., Inc.*, 130 NLRB 233; *George H. Braun, d/b/a Alamo-Braun Beef Company and George Braun Packing Co.*, 128 NLRB 32; *Florida General Linen Supply Company*, 124 NLRB 1300; *Harvey Radio Laboratories, Inc.*, 117 NLRB 552; *Stainless Welded Products, Inc.*, 116 NLRB 791.

length of service, up to \$3 an hour. All of the Employer's employees, whether part-time or full-time, receive similar fringe benefits, including holidays, vacations, and, with the exception of part-time employees who work less than 30 hours, hospital and insurance benefits, irrespective of the corporation upon which payroll they are listed.

Based upon the foregoing and upon the record as a whole, I find that the Employer's part-time employees in its various departments, including the sorting department, are regular part-time employees, who have a substantial community of interest in terms and conditions of employment with the Employer's full-time employees. In this connection, I find no merit to the Petitioner's contention that, as some of these part-time employees may utilize such employment as a "second job," they do not have the same interest as the full-time employees and should be excluded. Accordingly, consistent with established Board policy, I shall include them in the unit found appropriate herein.⁴

The record reveals that the sorter's job consists of zoning, sorting, tying, and bundling mail, loading and stacking mail bags, and loading trucks. However, it further indicates that sorting employees do not work solely in the sorting department. They frequently perform other functions throughout the various departments located in the building, as do other employees.⁵ Moreover, there are frequent transfers and interchange of employees among the departments and corporate entities constituting the Employer. When sorting and other employees work in departments other than the one assigned to, they come under the supervision of the individual in charge of that particular department. Further, the record discloses common supervision in that various supervisors are in charge of employees in several departments, and also of different departments in different corporations.

Based upon the foregoing, and particularly the common ownership, officers, control, and centralized management of the Employer, the common labor policy, common premises, substantial physical and functional integration of operations resulting in a straight-line process, in which employees of each of the Employer's composite corporations perform an integral part, the substantial interchange and contacts between the various employees of the Employer, the common supervision, frequent transfers from one department to another, and the substantial similarity with respect to wage rates and other terms and conditions of employment, I find that a unit which excludes the full-

⁴ *Berea Publishing Company*, 140 NLRB 516; *Barr's Jewelers*, 131 NLRB 235.

⁵ In this connection, the record reveals that during the 3-month period preceding the hearing in this matter, which is representative of the Employer's normal practice, the sorters devoted 10 to 18 percent of their working time to related work in other departments of the Employer and consequently in its corporate entities other than Clark-O'Neill Mail Service Corp.

time and regular part-time employees of Clark-O'Neill Mail Sorting Corp. as sought by the Petitioner is too narrow in scope, and that, as contended by the Employer, only the overall unit is appropriate for collective-bargaining purposes.⁶

The Petitioner alleges that the following individuals are supervisors within the meaning of the Act and should be excluded from the unit: Robert Brown, Raul Palachios, and James Grazioso in the Chesire department; Elinore Hadgood in the folding department; Olga Perez and Jenny Gonzalez in the list maintenance department; Sal DeMato in the warehouse; Sal Brown in the maintenance department; Herbert Heinsohn, Sidney Handler, Antonio George, Louis Waldman, and Samuel Rosenberg in the sorting department; and George Messino in the addressograph department.

Robert Brown, in addition to operating a Chesire machine, sets machines to the correct postage denomination and also assigns employees to the machines. However, orders as to which production jobs must be commenced first are transmitted to him from the overall production manager. He is hourly paid and receives the same overtime and wage benefits as other employees. As he does not have the authority to hire, layoff, recall, promote, reward, or discharge employees nor effectively recommend the same, and as the record indicates his responsibilities are of a routine nature not requiring the exercise of independent judgment, I find that he is not a supervisor within the meaning of the Act and shall include him within the unit.⁷

Raul Palachios also operates a Chesire machine and has the responsibility to see that such machines are in good operating order. He has been designated by the Employer to "assume responsibility" of the second-shift operators and employees were so notified. He reports to Antonio Brown, an admitted supervisor, any infractions by employees and the record indicates that he can and has in the past effectively recommended disciplinary action with regard to employees, and that Palachios' supervisor follows his recommendation with regard to infractions of plant rules without conducting an independent investigation. Although he does not possess the power to hire, fire, layoff, recall, promote, reward, or discharge employees, as he may effectively recommend disciplinary and other personnel action with regard to employees, I find he is a supervisor within the meaning of the Act and shall exclude him from the unit.⁸

James Grazioso, in addition to operating a machine, also sees that other machines are in good operating order. Although it is stated

⁶ See *Siemons Mailing Service*, 122 NLRB 81. Cf. *Florida General Linen Supply Company*, *supra*; *Dayton Newspapers, Inc.*, 119 NLRB 566; and see *Berea Publishing Company*, *supra*; *Harvey Radio Laboratories, Inc.*, *supra*.

⁷ *West Virginia Pulp and Paper Co.*, 122 NLRB 738, 745.

⁸ Cf. *Des Moines Foods, Inc.*, 129 NLRB 890, and see *West Virginia Pulp and Paper Co.*, *supra*, at 742.

in the record that his duties are similar to those of Palachios, it is not clear whether he possesses the same authority to effectively recommend disciplinary and other personnel action and, therefore, I shall allow him to vote subject to challenge.

Elinore Hadgood assists the folding department supervisor, Alanza Dixon, by distributing work to employees. In addition, she handles special mailing lists. As the record is devoid of evidence that she possesses any indicia of supervisory authority and as her assignment of work is of a routine nature, not requiring the exercise of independent judgment, I shall include her in the unit.

Olga Perez in the list maintenance department similarly does make some routine assignments of work with regard to special mailing lists. However, as the record does not indicate she possesses any indicia of supervisory authority, I shall include her in the unit.

Jenny Gonzalez in the performance of her duties as assistant to the supervisor of the Consac and Pfizer room, handles traffic between various departments and the office. In the performance of these duties she may assign work to employees by having them make cards, alphabetizing lists, and type reports. As the record does not indicate that the performance of her duties as assistant to the supervisor involves the use of independent judgment and as she has no other indicia of supervisory authority, I shall include her in the unit.⁹

George Messino assists the supervisor of list maintenance, George De Rose, in distributing work to employees and, in the absence of De Rose, will make work assignments. He is also responsible for quality control with regard to the Chesire machines and on occasion has permitted employees to leave before the termination of their normal working hours. The record also reveals, without contradiction, that he has on at least one occasion effectively recommended that an employee receive a wage increase and that he will periodically assume De Rose's functions in his absence. Messino performs no production work. Based upon the foregoing and upon the record as a whole, I find that Messino's duties involve the exercise of independent judgment and that he responsibly directs employees in the performance of their work. Accordingly, I conclude that he is a supervisor within the meaning of the Act and I shall exclude him from the unit.¹⁰

Sidney Handler, Samuel Rosenberg, Louis Waldman, and Herbert Heinsohn are designated by the Employer as supervisors in the sorting department on various shifts. Although they have no authority to hire or fire, they assign work to employees, oversee the performance of sorting work so that the mail is properly processed, assign sorters to other departments, handle grievances of employees, discipline em-

⁹ *West Virginia Pulp and Paper Co.*, *supra*, at 746.

¹⁰ *West Virginia Pulp and Paper Co.*, *supra*, at 748.

ployees, and effectively recommend such action. Each of these individuals is in charge of from 40 to 75 employees on various shifts and performs no production work. Based on the foregoing factors, I find these individuals are supervisors within the meaning of the Act and shall, therefore, exclude them from the unit.¹¹

With regard to Antonio George, although it was alleged that he is a relief supervisor in the sorting department, the record is devoid of other evidence as to the nature of his responsibility or authority over employees. Under these circumstances, as it is unclear whether his responsibilities are similar to those of Handler, Rosenberg, Waldman, and Heinsohn, I shall allow him to vote subject to challenge.

Although Sal DeMato is designated as supervisor of the warehouse, the Employer testified that he was an inventory clerk reporting inventory and control records to individual customers. The record reveals, however, that he does assign work to employees. As it is unclear whether this direction is of a responsible nonroutine nature, I shall allow him to vote subject to challenge.

Sal Brown is responsible for plant maintenance and in the performance of these duties makes routine assignments to four or five porters while personally performing maintenance work. Under these circumstances, and as the record does not reveal that he responsibly directs other employees or possesses any other indicia of supervisory authority, I shall include him in the unit.

The parties stipulated that employees classified as IBM computers should be included in the unit. However, they disagree as to the placement of the six employees classified as IBM programmers, whom the Petitioner contends are technical employees performing managerial functions and should be excluded, and whom the Employer contends should be included as production employees. Although the record does not describe in detail the work of the IBM computers, it appears that they feed data to the IBM machines in a clerical manner. As the record does not establish that they are technical employees, and in view of the stipulation of the parties, I shall include them in the unit. The record establishes that the programmers interpret IBM tapes and, based upon such interpretations, ultimately submit data to the IBM computers for processing through the IBM machines. As the record does not indicate whether the programmers formulate, determine, or effectuate management policies or assist in the same, and as it also fails to establish whether they have access to confidential information or whether they are technical employees within the meaning of the Act, I shall not resolve their status at this time but shall allow them to vote subject to challenge.¹²

¹¹ *West Virginia Pulp and Paper Co.*, *supra*, at 741, 748.

¹² *Cf. The Dayton Power and Light Co.*, 137 NLRB 337.

Accordingly, I find the following employees of the Employer at its Fairview, New Jersey, plant constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All employees of Clark-O'Neill Inc., Clark-O'Neill Service Corp., Clark-O'Neill List Maintenance Corp., and Clark-O'Neill Mail Sorting Corp., including IBM computers, Robert Brown, Elinore Hadgood, Olga Perez, Jenny Gonzalez, and Sal Brown, but excluding office clerical employees, professional employees, Paul Palachios, George Messino, Sidney Handler, Samuel Rosenberg, Louis Waldman, Herbert Heinsohn, guards, and supervisors as defined in the Act.

[Text of Direction of Election omitted from publication.]

Hod Carriers', Building & General Laborers' Union of America, Local No. 652, AFL-CIO [Earl C. Worley] and Waverly Arnold Brown. *Case No. 21-CB-1974. June 10, 1964*

DECISION AND ORDER

On January 31, 1964, Trial Examiner Howard Myers issued his Decision 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 attached Decision. Thereafter, the Respondent and General Counsel filed exceptions to the Decision and supporting briefs.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, the Board has delegated its powers in connection with this case to a three-member panel [Members Fanning, Brown, and Jenkins].

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 Trial Examiner's Decision, the exceptions and briefs, and the entire record in this case,¹ and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner with the following amplification and modifications.²

¹ Respondent's request for oral argument is hereby denied as, in our opinion, the record, including the exceptions and briefs, adequately presents the issues and positions of the parties.

² We agree with the Trial Examiner that Respondent violated Section 8(b)(2) and (1)(A) of the Act. As alleged in the complaint, and as the Trial Examiner's Decision clearly demonstrates, on and after October 18, 1962, Respondent withheld work opportunities from Brown and, on October 24, caused Brown's termination by Worley for unlawful considerations.