

APPENDIX

NOTICE TO ALL EMPLOYEES

Pursuant to the Recommended Order of a Trial Examiner of the National Labor Relations Board and in order to effectuate the policies of the National Labor Relations Act, as amended, we hereby notify our employees that:

WE WILL NOT refuse to recognize and bargain with Local 25, Retail Clerks International Association, AFL-CIO, as the exclusive representative of the employees in the appropriate bargaining unit described below.

WE WILL NOT coercively interrogate or poll our employees concerning their union sentiments; threaten to change their working schedules and conditions, to reduce their working hours, close down our store, or other reprisal, because they selected the Union as their bargaining representative.

WE WILL NOT in any like or related manner interfere with, restrain or coerce employees in the exercise of the right to self organization, to form labor organizations, to join or assist the above-named, or any other labor organization, to bargain collectively through representatives of their own choosing, and to engage in any other concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to refrain from any and all such activities.

WE WILL, upon request, bargain collectively with the above-named Union as the exclusive representative of all employees in the bargaining unit with respect to rates of pay, wages, hours of employment and other conditions of employment, and if any understanding is reached, embody such understanding in a signed agreement. The bargaining unit is:

All full-time and part-time grocery, produce, and meat department employees at the Rensselaer, Indiana, store, excluding the store manager, assistant manager, and all guards, professional employees, and supervisors as defined in the Act.

TOM'S SUPERMARKET, 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.

If employees have any question concerning this notice or compliance with its provisions, they may communicate directly with the Board's Regional Office, 614 ISTA Center, 150 West Market Street, Indianapolis, Indiana, Telephone No. 633-8921.

B. J. Carney Company, Petitioner and Local Union No. 3-10, International Woodworkers of America, AFL-CIO. Case No. 19-UC-4. March 30, 1966

DECISION AND REVIEW

On October 14, 1965, the Acting Regional Director for Region 19 dismissed a petition filed by the Employers to clarify the existing certified unit represented by the Union by excluding therefrom temporary employees. Thereafter, in accordance with Section 102.67 of the National Labor Relations Board Rules and Regulations, Series 8, as amended, the Employer filed with the Board a timely request for review of the Acting Regional Director's Decision on the ground, *inter alia*, that the disputed employees, students employed during

summer vacation periods, are temporary employees and, under established Board policy, are excluded from bargaining units. The Union filed opposition.

On January 26, 1966, the Board, by telegraphic Order, granted the Request for Review as it raised substantial issues warranting review.

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

The Board has considered the entire record in this case with respect to the issues under review, including the positions of the parties set forth in the request for review and the opposition thereto, and makes the following findings:

The Employer is engaged in Spokane, Washington, in the production, sale, and preservative treatment of wooden poles and pilings. Currently it employs 23 to 25 regular employees. Sometime prior to 1940, the Union was certified as the exclusive collective-bargaining representative of the production and maintenance employees of a predecessor of the Employer at the same location.¹ In a later election in 1951 (Case No. 19-UA-2532) the unit was described as follows:

"All production and maintenance employees in the Company's operation at Yardley, Washington, excepting and excluding all office and clerical employees and plant guards, professional employees and supervisory employees as defined in the Labor Management Relations Act of 1947."

The Acting Regional Director found that the unit in the current contract between the Union and predecessor company, executed on October 21, 1963, and expiring June 1, 1966, is substantially the same as that described in the UA proceeding in 1951, which in turn was based on a certification issued to the Union prior to 1940. The unit description therein makes no specific reference to temporary employees, and other provisions of the contract, including the holiday-pay clause, do not specifically refer to temporary employees. In 1965, the Union for the first time sought to apply the contract to students working temporarily during the summer. The Employer refused and the matter remains unsettled pending this proceeding. The Employer began the policy in 1963 of hiring two or three summer students as replacements for regular employees on vacation, to do general maintenance work. In 1965, the Employer hired three additional summer students because of an emergency need. All students were told upon hire that their employment was temporary, "to last until school started and maybe not," and that, unlike regular employees, they would not be given holiday pay during their employment.

¹The Acting Regional Director, in his Decision, amended the certificate to substitute the name of the Employer for its predecessor. No request for review was filed with respect to such amendment.

It is clear from the foregoing that the students involved herein are temporary or casual employees hired for a definite limited period and without reasonable expectancy of retention or later recall.² It is also clear, and we find, that neither the certified unit nor the unit covered by the most recent contract specifically includes such employees. In the circumstances, as the Board does not, absent agreement of the parties, include temporary or casual employees in bargaining units, we find that the summer students here in issue are not part of the existing unit. We shall, therefore, reverse the Acting Regional Director's Decision and grant the petition for clarification as requested by the Employer.

Accordingly, we shall clarify the existing unit by excluding therefrom students hired on a temporary basis during their summer vacations.³

ORDER

IT IS HEREBY ORDERED that the certification heretofore issued in the above-captioned proceeding be, and it hereby is, clarified by specifically excluding therefrom all students temporarily employed during the summer vacation period.

² See *Pacific Tile and Porcelain Company*, 137 NLRB 1358, 1365; and cases cited therein.

³ See *Recipe Foods, Inc.*, 145 NLRB 924.

Bev Cal Optical Co. and Optical Workers Organizing Committee Jewelers' Union, Local 23, International Jewelry Workers Union, AFL-CIO and Our Own Union. *Case No. 31-CA-47 (formerly 21-CA-6510). March 31, 1966*

DECISION AND ORDER

On November 24, 1965, Trial Examiner James R. Hemingway 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 Trial Examiner's Decision. Thereafter, the Respondent filed exceptions to the Trial Examiner's Decision together with a memorandum in support of the exceptions, and the General Counsel filed cross-exceptions to the Trial Examiner's Decision and Recommended Order.¹

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

¹ The General Counsel's cross-exceptions are limited to the Trial Examiner's finding regarding Our Own Union.