

think you have to admit that—most of you—we have always tried to be fair with everyone and we will continue to do so in the future. This rule, which some of you do not like, was put in effect to make sure that everyone was treated the same. If you think this is bad, if you think the rules that are coming in the plant—there are rules coming in the plant, this is only the beginning. I hope you will never have occasion to find out how rough it can be.

If you're tired of fooling with these people, as we are, I urge you to take it upon yourself individually, to convince these people that they have the best deal around; decent work; tell them to do what they are paid to do and let's make a better profit in the coming year.

Now, we have no animosity in our hearts for anyone, because we believe people can be misled. They can be misinformed and mislead, so I want you to know that we hold no grudge against you. Those who work for me—we want everybody to be happy. We want them to be happy in the Neuhoff organization.

My analysis of the speech is that there is at most a single technical violation of Section 8(a)(1) of the Act. It is obvious that Neuhoff is endeavoring to heal wounds and to smooth over any friction between employees that may have developed during the Union's organizing campaign. He talks to the discord among the employees and the fact that some wanted someone else to represent them and be their representative in promoting their rights with the Company, but in that respect the Respondent acknowledged "this they have a right to do and we respect this right." This is an acknowledgement of safety to employees of the Respondent with no threat that anything would happen to them if they exercise this right of theirs or with no promise of benefit if they ignored or if they refused to engage in this type of activity. The point that I believe is a technical violation of Section 8(a)(1) is when Neuhoff stated that the new requirement to sign a slip when an employee came in late was the direct result of "union activity." But then he went on to say that in the Respondent's effort to be fair with everyone and the fact that they were going to continue to be fair in the future "this rule, which some of you do not like, was put in effect to make sure that everyone was treated the same." His remarks thereafter that there would be rules coming into the plant, would relate as well to the result of bargaining between the collective-bargaining representative as it would to the thought that the rules would be unilaterally established by Respondent. There is no "retaliation" implied by Respondent to union activities of its employees. His closing remarks are a simple appeal to the employees not to be misinformed or mislead plus a statement that the Respondent has no grudge against anyone because of his union activity. Keeping this in mind, as well as the fact that this speech was given at a Christmas party where good will is the theme, I do not believe the record warrants a finding that Respondent was interfering with, coercing, or restraining employees with respect to their rights under the Act.

CONCLUSIONS OF LAW

The General Counsel has not established by a preponderance of the evidence that Respondent discharged or otherwise discriminated against employee Lewis in violation of Section 8(a)(3) of the Act, or that it has violated Section 8(a)(1).

[Recommended Order omitted from publication.]

M. A. Norden Company, Inc. and International Hod Carriers' Building and Common Laborers' Union of America, AFL-CIO, Petitioner. *Case 15-AC-4. June 28, 1966*

DECISION ON REVIEW AND ORDER

On October 14, 1965, in Case 15-RC-3142, the Regional Director for Region 15 certified International Hod Carriers' Building and 159 NLRB No. 143.

Common Laborers' Union, AFL-CIO, herein called the Petitioner, as the representative of the production and maintenance employees of the Employer. On or about January 20, 1966, Petitioner filed with the Regional Director a petition to amend the certification so as to: (1) change its name to conform to its present official title Laborers' International Union of North America, AFL-CIO; and (2) to substitute Laborers' Local Union 70, its affiliate, as the certified representative. On January 26, 1966, the Regional Director issued an Order to Show Cause why the amendment should not be made, to which the Employer responded on January 28, 1966, opposing the amendment.

On February 28, 1966, the Regional Director issued a Decision and Amendment of Certification, granting the Petitioner's motion in full. Thereafter, in accordance with Section 102.67 of the National Labor Relations Board Rules and Regulations, Series 8, as amended, the Employer filed a timely request for review alleging, *inter alia*, that the Regional Director erred in substituting Laborers' Local Union 70 for the certified International.¹ By telegraphic order dated May 5, 1966, the National Labor Relations Board granted the Employer's request for review.

Pursuant to the provisions of Section 3(b) of the National Labor Relations 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 Zagoria].

The Board has considered the entire record in this case with respect to the Regional Director's determination under review and finds, for the reasons set forth below, that the Petitioner's request to amend the certification so as to substitute Laborers' Local Union 70 as the certified representative should be denied.²

It is undisputed that the Regional Director certified the Petitioner as the exclusive representative of the Employer's production and maintenance employees following the conduct of an election in which the Petitioner was the sole Union appearing on the ballot. In requesting that its Local 70 be now substituted as the certified representative, Petitioner avers that it does not, as an International union, normally engage in local collective bargaining and has historically followed the practice of filing petitions with the Board in the name of the affiliated local union or district council; that Laborer's Local Union

¹ In view of our action herein denying the request for substitution, we consider it unnecessary to rule on the other (procedural) grounds urged by the Employer for reversing the Regional Director.

² The Employer apparently does not object to changing the name of the International to conform to its present official title. The thrust of the Employer's position is that it opposes the substitution of a local union for the International with which it has been negotiating.

70 was in existence at the time the petition was filed and that its representative signed and filed the representation petition and participated in the hearing. Petitioner implied that, although it had intended to name the local affiliate as the Petitioner, it inadvertently failed to do so.

In opposing the requested amendment, the Employer stated, among other things, that it had no knowledge or information sufficient to form a belief as to the truth of the above averments. The Employer further claimed that it was engaged in negotiating with the International for a bargaining agreement at the time the petition to amend the certification was filed,³ and that there was no warrant for the requested substitution of the Local as the certified representative. The Regional Director found that, inasmuch as the Employer did not expressly deny the allegations made by the Petitioner, nor allege any facts inconsistent therewith, there was no reason why, in the circumstances, the requested amendment should not be made. We do not agree.

Contrary to the Petitioner's position, we find nothing in the objective facts which indicates that the employees' choice of the certified International as their representative was intended to encompass its local affiliate, Laborers' Local Union 70. Moreover, there is no evidence that the employees had knowledge of, or have consented to, the proposed change. Under these circumstances, we find no warrant for the substitution of the Local as the certified representative.⁴ We shall therefore deny the petition to substitute the Local as the certified representative, but without prejudice to further consideration upon a showing of consent by the employees in the unit.

[The Board ordered that the petition to amend certification filed by Laborers' International Union of North America, AFL-CIO, and its affiliate, Laborers' Local Union 70, be denied to the extent that it seeks to substitute the said Local as the certified representative.]⁵

³ The Board takes administrative notice of withdrawal, on December 28, 1965, by Local Union 70, Laborers' International Union of North America, AFL-CIO, of its charge, filed November 22, 1965, that the Employer had refused to bargain collectively with International Hod Carriers' Building and Common Laborers' Union, AFL-CIO. The Employer alleges that thereafter, on or about December 29, 1965, International Hod Carriers' requested the Employer to bargain with it and that since January 5, 1966, the Employer and the said International Hod Carriers' have been engaged in collective bargaining with respect to the employees covered by the certified unit.

⁴ Cf. *Yale Manufacturing Company, Inc.*, 157 NLRB 597; *Gulf Oil Corporation*, 135 NLRB 184.

⁵ The Board takes administrative notice of approval by the AFL-CIO of the Petitioner's request to change its official name from International Hod Carriers' Building and Common Laborers' Union of America, AFL-CIO (its name at the time of the representation election), to Laborers' International Union of North America, AFL-CIO. Accordingly, that part of the Regional Director's Decision which solely reflects the change in name of the International is hereby affirmed.