

A. Finkl & Sons, Co. and Stanley J. Stepek. Case
13-CA-8825

January 20, 1970

DECISION AND ORDER

BY CHAIRMAN McCULLOCH AND MEMBERS
FANNING AND JENKINS

On October 15, 1969, Trial Examiner Harold X. Summers issued his Decision in the above-entitled proceeding, finding that Respondent had engaged in certain unfair labor practices within the meaning of the National Labor Relations Act, as amended, and recommending that it cease and desist therefrom and take certain affirmative action, as set forth in the attached Trial Examiner's Decision. He further found that Respondent had not engaged in certain other unfair labor practices and recommended that such allegations be dismissed. Thereafter, Respondent filed exceptions to the Decision and a supporting brief. The General Counsel filed cross-exceptions and a supporting brief.

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 proceeding to a three-member panel.

The Board has reviewed the rulings of the Trial Examiner made 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, cross-exceptions, and briefs, and the entire record in this proceeding, and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner, with the modification set forth below.

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby adopts as its Order the Recommended Order of the Trial Examiner, as modified herein, and orders that Respondent, A. Finkl & Sons, Co., Chicago, Illinois, its officers, agents, successors, and assigns, shall take the action set forth in the Trial Examiner's Recommended Order, as so modified:

1. Delete the word "other" from the paragraph 1(b) of the Trial Examiner's Recommended Order, and substitute therefor the words "like or related."
2. Delete the word "other" from the paragraph beginning **WE WILL NOT**, in any other manner" in the Appendix attached to the Trial Examiner's Decision, and substitute therefor the words "like or related."

¹We make this modification in view of Respondent's long and stable collective-bargaining relationship with the Union and the absence of any evidence of union animus.

TRIAL EXAMINER'S DECISION

HAROLD X. SUMMERS, Trial Examiner: In this proceeding, the General Counsel of the National Labor Relations Board (herein called the General Counsel and the Board, respectively) issued a complaint¹ alleging that A. Finkl and Sons, Co (herein, Respondent) had engaged in and was engaging in unfair labor practices within the meaning of Section 8(a)(1) and (3) of the National Labor Relations Act (the Act). The answer to the complaint admitted some of its allegations, denied others, and pleaded affirmatively; in effect, it denied the commission of any unfair labor practices. Pursuant to notice, a hearing was held before me at Chicago, Illinois, on May 21, 1969; all parties were afforded full opportunity to call and examine and to cross-examine witnesses, to argue orally, and thereafter to submit briefs.

Upon the entire record² in the case, including my evaluation of the reliability of the witnesses based upon my observation of their demeanor, I make the following:

FINDINGS OF FACT

I. JURISDICTION

Respondent, its plant located in Chicago, Illinois, is an Illinois corporation engaged in the business of manufacturing steel forgings and special steels. During the calendar or the fiscal year immediately preceding the issuance of the instant complaint, representative periods, Respondent sold and shipped directly from its Chicago plant to states of the United States, other than the State of Illinois, goods and materials valued at in excess of \$100,000.

Respondent is an employer engaged in commerce within the meaning of the Act.

II. THE UNION

International Brotherhood of Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers and Helpers, AFL-CIO, Lodge 1247 (herein called Boilermakers) acted as bargaining agent for a unit of Respondent's employees at all times material herein.

Boilermakers is a labor organization within the meaning of the Act.

III. THE ALLEGED UNFAIR LABOR PRACTICES

A. Background and Chronology

In 1946, Boilermakers was certified by the Board as the exclusive bargaining agent of a unit of Respondent's nonsupervisory production and maintenance employees. Since that time, up to and including the date of the instant hearing, the relationship between Respondent and Boilermakers, interrupted only by negotiation periods, has been formalized by a series of collective-bargaining contracts. In addition, at all times relevant hereto, Respondent dealt with the "Machinists"³ and the

¹The complaint was issued on April 23, 1969. The charge initiating the proceeding was filed on December 31, 1968.

²On September 16, 1968, I issued an order to show cause why the transcript of the hearing herein should not be corrected in specified respects. No good cause to the contrary having been shown, the corrections indicated in the order to show cause (which is received in the record as TX Exh. 1) are hereby ordered made.

³Presumably, a constituent of the International Association of Machinists.

"Electrical Workers"⁴ over the working conditions of other bargaining units of its employees. Finally, as of the period involved, Respondent was party to a "cartage agreement" with a "Teamsters" affiliate.

As of the latter half of 1968,⁵ among their other benefits, employees of Respondent, including those in the bargaining unit represented by Boilermakers, were covered by a group insurance policy issued by General Accident Fire and Life Assurance Corporation, Ltd. (herein called the insurance company) which provided, among other things, for the payment of hospital and surgical expenses arising out of illness or nonoccupational injuries, and for the payment of disability benefits for loss of worktime due to illness or nonoccupational injuries.⁶

On August 31, 1968, by their terms, Respondent's collective-bargaining agreements with Boilermakers and with the Machinists expired, and two separate sets of negotiations on new contracts began at or about that time. (There are indications in this record that Respondent's contract with the Electrical Workers had also expired, but, by agreement, negotiations looking toward a successor contract were suspended awaiting the results of the negotiations involving the other two unions.) No new agreements having been consummated by September 9, the employees represented by Boilermakers and the Machinists went out on strike; and the employees represented by the Electrical Workers and the Teamsters honored their picket lines.

During all times material herein, Stanley J. Stepek, the individual who filed the unfair labor practice charge intiating this proceeding, has been and is (1) an employee of Respondent within the bargaining unit represented by Boilermakers and (2) secretary-treasurer of Boilermakers. One of those who went out on strike on September 9, he thereafter engaged in picket line duty and received strike benefits. In addition, on the basis of his office in Boilermakers, he played a part in the distribution of benefits to strikers; specifically, he was one of the two who acted as directors of the strike benefit fund; each week, he or the other director dispatched strike benefit application forms to the Boilermakers' International office; he received the weekly overall benefit check from the International office and deposited it in a local bank; he or the other director picked up the preprepared individual benefit checks from the bank, and each of them countersigned these checks; and he or the other director turned the checks over to Boilermakers' stewards for distribution.

On September 27, late at night, Stepek was one of five persons picketing Respondent's plant when a number of strangers assailed them. Stepek was stabbed, two other pickets were otherwise injured, and all three were hospitalized.⁷ Stepek was in the hospital for several weeks.

⁴Not further identified in this record. However, back in 1946, a local of the International Brotherhood of Electrical Workers had been certified as bargaining agent for a unit composed of Respondent's maintenance electricians and helpers.

⁵Unless otherwise indicated, all dates referred to herein fall within the calendar year 1968.

⁶The pertinent Boilermakers' collective-bargaining agreements incorporate the benefits provided by the insurance policy, except that they specify that both illnesses and injuries, to be covered, must result from nonoccupational causes.

⁷There is no allegation, or evidence, that the attack was in any way imputable either to Respondent or Boilermakers; in fact — although details are hazy — it appears that the only connection with the parties or with the strike with which this case is concerned is the possibility that robbery was the motive — a motive related to the fact that Stepek may

In answer to early queries by hospital personnel concerning Stepek's — and the others' — status as employees and the existence of hospitalization/surgery insurance, Respondent, through a representative, gave answers which permitted the hospital and surgical expenses of the three to be paid. These expenses were subsequently paid by insurance company checks.

On November 22, at separate meetings, the employees represented by Boilermakers and those represented by the Machinists respectively ratified the terms of new agreements which were presented to them. In effect, these actions signaled an end to the strike, and Respondent's employees returned to work, as needed, throughout the period from November 25 to December 2.

Because of the injuries suffered by him on September 27, Stepek was unable to return to work until December 26. He did report for work on the latter date and, thereafter, has been continuously employed by Respondent.

Within apt time — prior to December 2 — Stepek applied for disability benefits — i.e., benefits for the period of time lost due to his injuries. Respondent through Richard Burgess, its director of industrial relations, almost immediately rejected Stepek's claim.⁸

It should be noted that claims for hospital and surgical expenses are normally filed with and passed upon by the insurance company; and (if allowed) they are paid directly by insurance company check. Claims for sickness/accident (i.e., disability) benefits, on the other hand, are filed with Respondent, which requires, among other things, the submission of doctor's statements. Thereupon, without consultation with the insurance company, Respondent's officials grant or deny these claims. If the former, Respondent issues and remits checks in payment. Only after making and effectuating a disability decision does Respondent send notification to the insurance company, along with substantiating material. On occasion, the insurance company has submitted followup requests for additional information, but, insofar as is revealed by this record, it has never reversed a disability decision by Respondent. I find that Respondent's decision in this respect carries dispositive weight.

As indicated, Respondent rejected Stepek's disability claim. The assigned reason for the rejection was the asserted belief that the conditions of the policy were not met: Stepek's was not a nonoccupational injury; at the time of the attack, he was, in effect, employed by an employer (Boilermakers) (1) because, as a supposed condition for receiving strike benefits, he was picketing for Boilermakers, and (2) because — Respondent understood — the motivation for the attack was the fact that the attackers, having seen Stepek handle strike-benefit funds away from the picket line, may have believed he was carrying funds for Boilermakers at the time in question.

On or about December 26, after Stepek returned to work, he re-raised the subject of his disability payments with Burgess. Burgess reiterated that he was not entitled to them. Thereupon, Stepek visited the Regional Office of the Board at Chicago and filed the unfair labor practice charge initiating this proceeding.

have been seen signing, handling, and/or transmitting strike benefit checks at a nearby tavern.

⁸There is some indication in this record that one of the two others injured in the course of the September 27 attack on the picket line also filed a claim for disability payments and that his claim was likewise rejected. The denial of his benefits, however, was not a subject of litigation herein

Subsequently — the date is not specified in this record a grievance was filed with Respondent on behalf of a number of employees. Included was Stepek's complaint about the disposition of his claim for disability benefits.⁹ At the suggestion of Burgess, apparently based on the fact that the instant case was pending, Stepek's name¹⁰ was stricken,¹¹ and this course was pursued no further.

A number of additional findings are here in order: (1) Stepek received no salary as secretary-treasurer of Boilermakers, but he did receive expense money on a monthly basis. (2) He received no compensation for his activities as codirector of the strike-benefit fund. (3) During the strike against Respondent, he, along with other strikers, received strike benefits — \$30 — for weeks in which he was eligible. Finally (4), eligibility for strike benefits for a given week was not dependent upon picketing that week; rather, it was based upon whether the claimant had been totally unemployed.

To fill out the picture, it should be noted (5) that a number of other employees of Respondent, in the Machinists' and the Electrical Workers' units as well as in the Boilermakers', received disability benefits during part or all of the period covered by the strike, some of them resulting from injuries sustained during the strike period but not at the picket line; likewise (6), hospital and surgical expenses of "quite a few" of Respondent's employees, incurred during the strike period, were paid for under the group insurance policy.¹²

B. Discussion-Conclusions

It is the denial of Stepek's claim for disability benefits which is the sole matter of contention herein.¹³

Counsel for the General Counsel contends that an employee's peaceful picketing outside his employer's plant during a strike is a union or protected concerted activity; that Stepek was engaged in such activity when he was injured; and that "it is evident that Respondent violated Section 8(a)(3) of the Act when it refused to pay Stepek his disability benefits because he was injured while engaged in protected activity." Anticipating contrary arguments based upon a lack of evidence of specific motivation to discriminate, he quotes from *N.L.R.B. v. Erie Resistor Corp.*¹⁴ to the effect that, when conduct is so discriminatory and so discourages union membership, whatever the claimed justification may be, that an employer must have foreseen the consequences of his acts, further proof of intent is unnecessary. Conceding that the insurance policy in question would not have required payment for injuries sustained while Stepek worked for an employer other than Respondent, General Counsel, relying upon the facts that Stepek received no salary from Boilermakers for his services as secretary-treasurer and

that his eligibility for strike benefits depended upon the same factors as all other strikers — factors which did not include the duty to perform picket work — and citing Board cases¹⁵ to the effect that strike benefits not geared to picketing requirements could not be offset against backpay due a person discharged discriminatorily, concludes that Stepek was not "employed" when he was injured — hence, was entitled to the disability payment. In this respect, General Counsel points to the fact that, in its prior treatment of the question of Stepek's hospital and surgical expenses, Respondent had taken a position inconsistent with the one it took on his disability.

Respondent, conceding that ". . . it is clear that the Board has jurisdiction over questions arising under a collective bargaining agreement when an alleged violation of the agreement also constitutes an unfair labor practice,"¹⁶ nevertheless urges that the propriety of Respondent's interpretation of the term "from non-occupational causes" is a question of interpretation of contract with which, under established precedents,¹⁷ the Board should not concern itself. Also, Respondent seeks to justify its interpretation of Stepek's disability-payment eligibility on the basis of judicial precedents,¹⁸ in view of the facts available to Burgess when he made the decision for Respondent, in consideration of the absence of evidence of any union animus on its part,¹⁹ and giving due weight to the fact that Respondent did give disability benefits to other employees even though they were on strike. Basically, however, Respondent bases its argument on the assertion that the Board's handling of this matter on its merits would encourage employees to disregard established grievance procedures.

Section 10(a) of the Act provides that the Board's power to prevent any person from engaging in any unfair labor practice "shall not be affected by any other means of adjustment or prevention that has been or may be established by agreement, law, or otherwise." As the United States Supreme Court said in *N.L.R.B. v. Strong*, 393 U.S. 357, 361 (1969):

. . . the Board may proscribe conduct which is an unfair labor practice even though it is also a breach of contract remediable as such by arbitration and in the courts. *Smith v. Evening News Assn.*, 371 U.S. 195, 197-198 (1962). It may also, if necessary, . . . interpret and give effect to the terms of a collective bargaining contract. *N.L.R.B. v. C & C Plywood Corp.*, 385 U.S. 421 (1967).

⁹373 U.S. 221, 228.

¹⁰*Standard Printing Company of Canton*, 151 NLRB 963, *Rice Lake Creamery Co.*, 151 NLRB 1113, aff'd in pertinent part 365 F.2d 888 (C.A.D.C.), *Florence Printing Co.*, 158 NLRB 775, enf'd 376 F.2d 216 (C.A. 4), cert. denied 389 U.S. 840.

¹¹Respondent's brief, p. 3.

¹²*Citing Republic Steel Corporation v. Maddox*, 379 U.S. 650, *Joseph Schlitz Brewing Co.*, 175 NLRB No. 23, *Vickers, Incorporated*, 153 NLRB 561, 570.

¹³*Morgan v. Equitable Life Assurance Society of U.S.*, 22 So. (2d) 595 (La. App.), *Equitable Life Assurance Society of U.S. v. Bachrach*, 120 N.W. (2d) 327 (Minn. S.C.).

¹⁴Respondent points out, and I find, that Respondent has had contractual relations with Boilermakers since May 1947; that their first contract (1947) contained a maintenance of membership clause; and that their second (1950) contained a 30-day union-shop provision. I find further that, in both the contract at whose expiration the strike involved herein was called, and the contract which has since been executed, there are provisions for a union shop and for a voluntary dues checkoff. Finally, I find that, in the most recent negotiations, Respondent offered to include a provision for arbitration of otherwise unadjusted grievances but that Boilermakers, citing costs, rejected the offer.

⁹As was that of the other picket whose disability claim had been rejected.

¹⁰Also, that of the other disability claimant.

¹¹This finding is based upon credible, uncontradicted testimony. Respondent's brief suggests that the testimony that Burgess played a part is hearsay, but a reading of the transcript reveals that (1) on its face, it was not hearsay, and (2) no objection on this ground was voiced at the time.

¹²For a short period, Respondent took the position that the group insurance policy was suspended between November 1 and November 22. Subsequently, however, it reversed itself, and this factor plays no part in this matter.

¹³It is stipulated, and I find, that the claim, if approved, would amount to a \$60-per-week payment for the period from September 27 to December 26, 1968. Absent any other problem of eligibility for disability benefits, the existence of a strike would not have barred payments.

And this principle is particularly apt where, as here, there is no provision for arbitration in the involved collective-bargaining agreement.²⁰

Of course, the Board, on occasion, has exercised (or has been told it should have exercised) its discretion against handling the merits of an unfair labor practice allegation where there was a question of contract interpretation; and, as noted earlier, Respondent has cited several precedents in support thereof. But it should be noted that — aside from the fact that the cited precedents involved situations in which arbitration was available for resolution of the contract disputes — the acts there complained of involved employers' good-faith contractual interpretations concerning a refusal to give severance pay,²¹ changes in job-classifications,²² and the institution of a relief-man system.²³ It is respectfully submitted that, where the contract-interpretation involves a possible infringement upon the employees' right to picket, the Board should not defer to any other means of disposition of the matter; the Board must interpret the contract.

The insurance policy in question, in pertinent part, provides that:

If the employee while covered under the policy becomes totally and continuously disabled because of non-occupational injuries sustained while the coverage is in force . . . and during such disability thereby is prevented from performing any and every duty of his occupation, the Company will pay benefits during such period

While it is true, as argued by Respondent, that the term "nonoccupational" means "not of or pertaining to a trade, occupation or work," the facts in the two cases it cites therefor²⁴ are scarcely helpful here. In one, the plaintiff was denied nonoccupational insurance benefits for injuries sustained while using free transportation, furnished by her employer, from her workplace and the plant entrance, between which points employees' own automobiles were not allowed; the court noted that employers often furnished such facilities and that injuries arising therefrom had invariably been held subject to Workmen's Compensation laws. In the other, the appellant, having sustained a heart injury in the course of handling merchandise for his employer, first collected insurance under a nonoccupational disability insurance policy, then sought and won an award under a Workmen's Compensation Act; and the court, having no difficulty in finding "unjust enrichment," affirmed a judgment for the insurance company in a suit for the return of the insurance benefits. And not much more helpful are the several cases I have found in which injuries which employees sustained were somewhat related to union functions.²⁵

Closer to the mark are the General Counsel's citations of precedents which have held that strike benefits are not earnings, particularly that²⁶ in which the Board went on to say that

We are . . . satisfied here that the strike benefits neither resulted from nor created an employment relationship, and that the strike benefit scheme is in the nature of a private insurance arrangement.

Moreover, the logic of this position, as it applies to the instant situation, is persuasive. "Occupation" is:

the term usually . . . applied to a person's trade or vocation. For example, a teacher's or accountant's employment or principal way of making a living is generally considered to be his occupation.²⁷

or

the principal business of one's life: a craft, trade, profession or other means of earning a living.²⁸

While these definitions might not rule out, as an occupation, one's secondary or "moonlighting" job — or for that matter, picketing performed by outsiders hired for the purpose — I am convinced that the term does not encompass a striker's *uncompensated* picketing or other acts performed in furtherance of the strike effort.

In sum, I find and conclude that, in rejecting Stepek's disability claim on the ground that his injury was "occupational" in origin, Respondent was not adhering to the applicable group insurance policy, either because it was acting upon facts not in existence or because it was misinterpreting the provision in question.

I find that the Respondent's erroneous interpretation of the insurance policy (for whatever reason), and its consequent rejection of Stepek's disability claim, applied, as it is applied, to picketing and related activities,²⁹ had and has the necessary effect of inhibiting employees' strike activities, thereby interfering with employees in their exercise of self-organizational rights guaranteed them under Section 7 of the Act. Such interference, whether or not based upon a good-faith interpretation of contract,³⁰ constitutes a violation of Section 8(a)(1) of the Act.

On this record, however — taking into consideration the absence of any independent evidence of union animus and noting particularly the evidence of a long and stable relationship between Respondent and Boilermakers — I am unable to perceive a discouragement of union membership.³¹

Upon the foregoing factual findings and conclusions, I come to following:

telephone call to his union in an effort to avert an impending strike was held to be covered by his employer's Workman's Compensation liability

²⁰*Standard Printing Co. of Canton, supra* at 967.

²¹Roberts' Dictionary of Industrial Relations, 1966

²²Webster's Third New International Dictionary, 1968.

²³Respondent, at the hearing, conceded that the interpretation in question would be applied to Stepek if he was engaged in picketing or if, away from the picket line, he was engaged in distributing strike benefit checks, but that it would not be applied if — despite the pendency of the strike — Stepek was injured at his home while it was being robbed

²⁴*N.L.R.B. v. Burnup and Sims, Inc.*, 379 U.S. 21.

²⁵Nor, in having found interference with self-organizational rights, have I relied on the fact that Respondent, in dealing with the hospitalization/surgical aspects of the insurance, took a position apparently inconsistent with that taken on disability. The situation surrounding the earlier position taken has all the earmarks of a "middle-of-the-night" act of compassion.

²⁰See *N.L.R.B. v. C & C Plywood Corp.*, *supra* at 426

²¹*Republic Steel Corporation v. Maddox*, *supra*. It should also be noted that this was not a Board case; here, the appellee had filed a suit for breach of contract instead of pursuing grievance procedures, including arbitration, available to him.

²²*Vickers, Inc.*, *supra*.

²³*Jos. Schlitz Brewing Co.*, *supra*.

²⁴*Morgan v. Equitable Life Assurance Society of U.S.*, *supra*, and *Equitable Life Assurance Society of U.S.*, *supra*.

²⁵*Fegels v. Kaiser-Frazier*, 44 N.W. 2d 880 (Mich. S.C.), in which injuries sustained by an employee while participating in a lunchtime election were held to have been incurred outside the scope of employment; and *Kennedy v. Thompson Lumber Co.*, 26 N.W. 2d 459 (Minn. S.C.), in which an injury sustained by a shop steward while making a working-time

CONCLUSIONS OF LAW

1. Respondent is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

2. Boilermakers is a labor organization within the meaning of Section 2(5) of the Act.

3. By erroneously rejecting the disability claim of Stanley J. Stepek arising out of injuries he incurred while engaged in lawful picket line activities, Respondent interfered with employees in the exercise of rights guaranteed them in Section 7 of the Act, in violation of Section 8(a)(1) thereof.

4. The foresaid act is an unfair labor practice affecting commerce within the meaning of Section 2(6) and (7) of the Act.

5. Except for the foregoing, Respondent has committed no unfair labor practices under the Act.

THE REMEDY

Having found that Respondent has engaged in a certain unfair labor practice, I shall recommend that it be ordered to cease and desist therefrom and take certain affirmative action in order to effectuate the policies of the Act.

I shall recommend that Respondent make Stanley J. Stepek whole for any loss of disability payments suffered by him because of Respondent's act, by payment to him of a sum of money equal to the amount he would have received in disability payments for the period September 27 to December 26, 1968, with interest at a rate of 6 percent per annum.

As the unfair labor practice committed by Respondent is of the character striking at the roots of employees' rights safeguarded by the Act, I shall also recommend that Respondent cease and desist from infringing in any manner upon the rights guaranteed in Section 7 of the Act.

Upon the basis of the foregoing findings of fact and conclusions of law and the entire record in this case, and pursuant to Section 10(c) of the Act, I hereby issue the following:

RECOMMENDED ORDER

A. Finkl & Sons, Co. of Chicago, Illinois, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Erroneously rejecting the disability claim of any of its employees arising out of injuries incurred while engaged in lawful picket line activities.

(b) In any other manner interfering with, restraining, or coercing its employees in the exercise of their right to self-organization, to form labor organizations, to join or assist any labor organization, to bargain collectively through representatives of their own choosing, to engage in concerted activities for the purpose of collective bargaining, or other mutual aid or protection, and to refrain from any and all such activities, except to the extent 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.

2. Take the following affirmative action which I find will effectuate the policies of the Act:

(a) Make Stanley J. Stepek whole for any loss of disability payments suffered by him, in a manner set forth in the section above entitled "The Remedy."

(b) Post at its place of business at Chicago, Illinois, copies of the attached notice marked "Appendix."²² Copies of said notice, on forms provided by the Regional Director for Region 13, after being duly signed by Respondent's authorized representative, shall be posted by it immediately upon receipt thereof, and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by Respondent to insure that said notices are not altered, defaced, or covered by any other material.

(c) Notify the Regional Director for Region 13, in writing, within 20 days from the receipt of this Decision, what steps have been taken to comply herewith.²³

IT IS FURTHER RECOMMENDED that the complaint be dismissed insofar as it alleges violations of the Act not heretofore remedied in this Recommended Order.

²²In the event no exceptions are filed as provided by Section 102.46 of the Rules and Regulations of the National Labor Relations Board, the findings, conclusions, recommendations, and Recommended Order herein shall, as provided in Section 102.48 of the Rules and Regulations, be adopted by the Board and become its findings, conclusions, and order, and all objections thereto shall be deemed waived for all purposes. In the event that the Board's Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "Posted by order of the National Labor Relations Board" shall be changed to read "Posted pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board"

²³In the event that this Recommended Order is adopted by the Board, this provision shall be modified to read: "Notify the Regional Director for Region 13, in writing, within 10 days from the date of this Order, what steps Respondent has taken to comply herewith"

APPENDIX

NOTICE TO EMPLOYEES

Posted by Order of the National Labor Relations Board an agency of the United States Government

WE WILL NOT erroneously reject the disability claim of any employee arising out of injuries he incurred while engaged in lawful picket line activities.

WE WILL NOT, in any other manner, interfere with, restrain, or coerce our employees in the exercise of their rights to organize; to form, join, or assist a labor organization; to bargain collectively through a bargaining agent chosen by themselves; to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection; or to refrain from any such activities except to the extent that the right to refrain is limited by the lawful enforcement of a lawful union-security clause.

WE WILL see that Stanley J. Stepek receives disability payments for the period from September 27 to December 26, 1968.

A. FINKL & SONS, Co.
(Employer)

Dated _____ By _____ (Representative) _____ (Title)

This is an official notice and must not be defaced by anyone.

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.

Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office,

881 U.S. Courthouse & Federal Office Building, 219 South Dearborn Street, Chicago, Illinois 60604, Telephone 353-7572.