

**Western Heritage Mobile Homes of Arizona, Inc., and
Mill and Cabinet Local #2093, United Brotherhood
of Carpenters and Joiners of America. Case
28-CA-2047**

December 31, 1970

DECISION AND ORDER

BY CHAIRMAN MILLER AND MEMBERS
FANNING AND JENKINS

On September 9, 1970, Trial Examiner John G. Gregg issued his Decision in the above-entitled proceeding, finding that 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, Respondent filed exceptions to the Trial Examiner's Decision 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 case 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, the brief, and the entire record in the case, and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner.

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts as its Order the Recommended Order of the Trial Examiner and hereby orders that Western Heritage Mobile Homes of Arizona, Inc., Phoenix, Arizona, its officers, agents, successors, and assigns, shall take the action set forth in the Trial Examiner's Recommended Order.

TRIAL EXAMINER'S DECISION

STATEMENT OF THE CASE

JOHN G. GREGG, Trial Examiner: This trial under Section 10(b) of the National Labor Relations Act was conducted at Phoenix, Arizona, on May 7 and 8, 1970, pursuant to a Complaint and Notice of Hearing dated March 31, 1970.

The complaint alleges that the Respondent by interference, restraint, and coercion of its employees and by discriminating in regard to terms or conditions of employment of employees, thereby discouraging membership in a labor organization, engaged in unfair labor

practices proscribed by Sections 8(a)(1) and 8(a)(3) and 2(6) and (7) of the Act.

Subsequent to the trial the counsel for the General Counsel moved the Trial Examiner to amend the record in three points, the first of which sought the insertion of an answer by witness Johnston to counsel's question concerning the writing of a letter. The Respondent opposed the motion with respect to point one thereof on the grounds that there had been no answer to the question. After due consideration, the motion is denied with respect to point one and granted with respect to points two and three, and the transcript is amended accordingly.

Upon the entire record in this case, from my observation of the demeanor of the witnesses as they testified, and careful consideration of the briefs filed by the parties, I hereby make the following findings and conclusions:

FINDINGS OF FACT

I. JURISDICTION

Western Heritage Mobile Homes of Arizona, Inc., a corporation duly organized under the existing by virtue of the laws of the State of Arizona, hereinafter referred to as the Respondent, is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

II. THE LABOR ORGANIZATION INVOLVED

Mill and Cabinet Local #2093, United Brotherhood of Carpenters and Joiners of America, hereinafter referred to as the Union, is a labor organization within the meaning of Section 2(5) of the Act.

III. THE ALLEGED UNFAIR LABOR PRACTICES

The complaint alleges essentially that (a) on or about February 11, 1970, at the Respondent's plant Bob Johnston, a supervisor for the Respondent, indicated to the Respondent's employees that the Respondent was maintaining surveillance of the union activities of its employees and otherwise gave the impression that the Respondent was maintaining such surveillance; (b) that on or about February 11, 1970, at the Respondent's plant, Bob Johnston questioned employees concerning their union activities, their signing membership cards for the Union, and other matters relating to their union sympathies and desires and that, by the aforesaid acts, the Respondent interfered with, restrained, and coerced its employees in the exercise of rights guaranteed in Section 7 of the Act, thereby engaging in unfair labor practices in violation of Sections 8(a)(1) and 2(6) and (7) of the Act.

The complaint alleges further that on or about February 11, 1970, the Respondent discharged employees J. C. Hixon and Lupe Vallecillo because they joined or assisted the Union or engaged in other union activity or concerted activities for the purpose of collective bargaining or mutual aid or protection; that, by said acts, the Respondent interfered with, restrained, and coerced its employees in the exercise of rights guaranteed in Section 7 of the Act, thereby engaging in unfair labor practices in violation of Sections 8(a)(1) and 2(6) and (7) of the Act; and that, by said acts, the Respondent did discriminate and is

discriminating in regard to the hire or tenure of employment and terms or conditions of employment of employees, thereby discouraging membership in a labor organization, and has engaged in unfair labor practices affecting commerce within the meaning of Sections 8(a)(3) and 2(6) and (7) of the Act.

In its duly filed answer the Respondent denied the commission of any unfair labor practices.

J. C. Hixon testified that he was hired by the Respondent Company on March 5, 1969, and worked in the plumbing department from March 8, 1969, until February 11, 1970, the date his employment terminated. Hixon described his work as hooking up gaslines and laying sewer lines in the new homes being built. He stated that Robert Johnston was his immediate supervisor and that on February 11, 1970, he had the highest seniority in the plumbing department which comprised from 6 to 10 employees.

In describing the events leading up to his alleged discharge, Hixon testified that he left work at 4:30 p.m. on February 9, 1970, clocked out, and got into his car to go home. A man was standing out at the gate and as Hixon passed him in the car the man handed Hixon a pamphlet, and Hixon drove off. The pamphlet, according to Hixon, was distributed by Carpenter's Union 2093. Hixon testified that at the time of this incident, in the general vicinity, there was a uniformed plant guard and some others, including a dispatcher employed by the Respondent.

Hixon stated that on the following day, February 10, 1970, in the afternoon, the various departments of the Respondent were advised through the plant intercom to proceed to the lunchroom. When Hixon's department was called he went to the lunchroom where he joined approximately 30 of the other employees of the Respondent. Victor Jackson, a company representative and general manager, was there, as were the foremen of the various departments, including Bob Johnston, Hixon's foreman. According to Hixon, at this meeting Jackson said, "The Union will promise you this or promise you that, but I tell you what they will do. They will take your \$100 plus \$10 a month dues." According to Hixon, he also stated, "I would be awful disappointed, feel awful bad if you had to go to a union when you could come to me."

Hixon testified further that he clocked out that evening at 4:40 and drove to the meeting place in Chandler where approximately four or five employees were already assembled. According to Hixon, two union representatives were also present and a question and answer session ensued concerning union benefits, including health and welfare, vacation plans, and wages. According to Hixon, one of the union representatives then announced that the way to get into the Union was by signing cards and asked if there was anyone there who would like to sign the cards. According to Hixon, there was a brief silence and finally Hixon said, "Well, let me break the ice; I'll sign one." Hixon stated that he then got up, took a card and a pen, and signed. Hixon stated that of the 20 others who were then present, all but 2 signed up; one of the men who signed a card was Lupe Vallecillo.

Hixon continued his testimony stating that the next morning he reported to work at 7:50, punched his timecard,

went to the plumbing department, started to get his tools, and was ready to go to work.

Hixon testified that at this point Vallecillo and some of the other employees came in. Bob Johnston, who was at the side, said, "Jim, did you go to the union meeting last night?" When Hixon responded in the affirmative, Johnston said, "Did you sign a card?" Hixon again responded affirmatively. According to Hixon, Johnston then said, "Did you give them your \$10?" to which Hixon responded, "If I knew it was going to cost me \$10, I wouldn't have signed." Hixon stated that the men then scattered to their jobs. According to Hixon, during this conversation, Vallecillo, who was present, stated, "I signed one and I even got a pen to go with it."

Hixon testified that he then went to work hooking up gaslines and laying in water lines and sewer lines in the mobile homes. According to Hixon, around 9 o'clock that morning Johnston came back to the department and said he was going to take Vallecillo down to the appliance dock and break him in on hooking up lines. According to Hixon, Johnston said, "I think he'll make a good man there." Later that afternoon at about 3 o'clock, after Hixon had been called to the dock by Slocum and told that he had some gaslines that were not right and had to be changed, Hixon had another conversation with Johnston. Hixon told Johnston he had to change all the gaslines. Johnston then took Hixon into the personnel office, closed the door, and according to Hixon stated, "We have been friends, haven't we?" and then said, "I'm going to have to lay you off." Hixon testified that he asked Johnston for a reason and Johnston answered, "I can't; you give me one." Johnston told Hixon that he had spent 45 minutes in Birdsong's office trying to talk him out of it. Birdsong is the vice president of the Respondent Company.

According to Hixon, Johnston would not give him a reason for laying him off. Johnston told Hixon to go get his tools and then they went to the supply room where Johnston punched out Hixon's timecard. According to Hixon, Johnston told him, "This is the hardest thing I ever did." After Jackson gave Hixon his check Johnston told Hixon, "If there's ever anything I can do for you Jim, I'll do it."

Hixon stated that Johnston had never complained to him about his work, but on the contrary on several occasions had said that his work was good. Hixon testified that he never told anyone at Western Heritage that he was quitting his job.

Based on my observation of the demeanor of the witness, Hixon, as he testified, I credit his testimony. He was thoroughly straightforward and responded with sincerity, without equivocation, and with a clear absence of strain and contrivance. I credit his version of the events and discussions that led up to his discharge, and I credit his denial that he quit his employment.

Lupe Vallecillo testified that he went to work for the Respondent on January 28, 1970, and that he was laid off on February 11, 1970. Vallecillo testified that his job was in the plumbing department hooking up latrines, furnaces, and bathtubs and that his foreman was Bob Johnston.

Vallecillo testified that when he left work on Wednesday, February 9, he received a union pamphlet. The next day,

February 10, Vallecillo discussed the Union with J. C. Hixon. Vallecillo stated that he asked Hixon what the Union was all about and Hixon told him that it had to do with wages, hospitalization, insurance, and so forth and that if Vallecillo wanted to learn more about it he could go to the union meeting that evening where it would be explained. According to Vallecillo, during this conversation Johnston came in, was picking up something nearby, and said nothing.

According to Vallecillo, later that day company representatives called in the different sections to a meeting and Vallecillo went in with the plumbing department employees. Vallecillo recalled statements concerning the matter of joining the Union and recalled that the employees were advised that no one could force them to join the Union. Vallecillo recalled that the man who did the speaking said in effect that it would be a slap in the face to have the employees pay someone to talk for them when they could do it themselves. Vallecillo stated there were three company representatives present at this meeting.

Vallecillo attended the union meeting that evening and he stated that the union representatives, after a discussion of the objectives of the Union, showed those attending union cards which could be filled out and said that if anybody wanted to sign up to come on up and get one of the cards. According to Vallecillo, "J. C. Hixon was the first one to go up. Nobody moved, so he says 'I'll break the ice.' I got up after him and then the rest of them got up."

According to Vallecillo, Vallecillo went to work on February 11, going in a little before 8 o'clock. Vallecillo testified that shortly before 8 o'clock a group stood in a circle including Hixon, Johnston, Vallecillo, and others. According to Vallecillo, Hixon was getting his tools and Johnston asked Hixon if he had been at the union meeting. Hixon said he had been. Johnston asked him if he had paid his \$10. Hixon said, "No, if I had known I had to pay \$10, I wouldn't have joined." According to Vallecillo, Vallecillo then pulled out a pen and showed it and said, "I signed for it too and got a pen besides."

According to Vallecillo, in the afternoon of that day, sometime before 3 o'clock, Bob Johnston came to where he was working and said he wanted to talk with him. Johnston said, "I'm going to have to lay you off." Vallecillo asked him why and he said there was not enough trailer sales so he did not need Vallecillo. Johnston told Vallecillo to go punch out. Vallecillo punched out and Johnston said, "let's go up to the main office." While walking to the main office, Johnston told Vallecillo that when they started hiring again, he was going to try to get Vallecillo back on. Based on my observation of the demeanor of the witness, Vallecillo, as he testified, I credit his testimony. He testified in a truthful, straightforward manner.

Richard J. Wilquet testified that he was an employee of the Respondent, having worked for the Respondent since November 17, 1969. He testified that he was present at the meeting of employees on the morning of February 11, and that at that time he did not hear Johnston make any statement to Mr. Hixon about the Union nor did he hear Johnston ask Hixon if he had signed a union card.

Robert M. Johnston testified that he was foreman of the plumbing department for the Respondent Company,

having been employed by the Company since July 2, 1969. Johnston testified that Hixon quit his job on February 11, 1970. According to Johnston, sometime between 1 and 4 o'clock on February 11, Hixon said to Johnston, "I quit, I might as well get my tools and lunch bucket," to which Johnston replied, "Well, if that's the way you feel why all right."

Johnston stated that the first time he learned that the Union was attempting to organize the shop was when the letters were passed out 1 or 2 days before Hixon allegedly quit. According to Johnston, Jackson, the general manager of the Respondent, told him that the letters were being passed out but said nothing else about the distribution of union materials. Johnston testified that on the morning of February 11, he had 10 men in a meeting at which he was assigning work. Johnston assigned Hixon to the rough in plumbing and the other employees had the same job they had the day before. According to Johnston, nothing was said about the Union at this meeting. Johnston denied asking Hixon or Vallecillo if they had attended any union meeting or signed union cards and stated that he had not asked any employee about the Union. With respect to Vallecillo, Johnston stated that the inspector had complained about the way in which Vallecillo was putting on the 3-inch drain lines and that Johnston had to get Vallecillo to rectify this. According to Johnston, he told Vallecillo about it and showed him how to correct it, but on February 11 he had the same problems that he had 2 days earlier, with the lines leaking and running up hill. According to Johnston, he kept telling Vallecillo about this and showing him how it was done, which was very simple. Johnston stated several times he went to where Vallecillo was working and Vallecillo would be laying there on a creeper and would not be doing anything. Johnston stated that with all these problems and the inspector "crawling on my back" and with Vallecillo loafing several times, Johnston was just fed up with him and discharged him.

Concerning the alleged quit by Hixon on February 11, Johnston stated in essence that, on the morning of the 11th, he assigned Hixon to rough in plumbing. At 9 o'clock when Johnston checked Hixon's work, the work was not satisfactory—he was not doing it correctly. According to Johnston, some of the lines were coming up outside the wall instead of inside the wall. Johnston stated that it was up to Hixon to bring those lines up through the proper places and this was not being done correctly. Approximately an hour later Johnston checked again and found the same deficiency. Johnston stated that he talked to Hixon about it, that Hixon knew how to do it because he had done it before. Johnston stated that, at 1 or 1-1/2 hour intervals, he rechecked Hixon's work and each time he found it unsatisfactory and each time Johnston discussed it with Hixon. According to Johnston, around 2 o'clock in the afternoon he told Hixon that if he did not straighten out and get his work done right Johnston would have to replace him.

According to Johnston, Hixon got "real mad" and said, "Well, I know what you're trying to do . . . you're trying to get rid of me on account of the Union." When Johnston reiterated that if Hixon did not do his work right he was going to have to replace him, Hixon said, according to

Johnston, "Well, I'll just quit," to which Johnston responded, "Well, if you want to quit that's up to you." Hixon got his tools and lunch pail, went up to the main office, got his time and his final check, and left.

Johnston stated that at no time on February 11 did he have a conversation with Birdsong, the Respondent's vice president. Johnston stated that he said nothing to Hixon about having any conversation with Birdsong. Johnston denied the version given by Hixon of his conversation with Hixon and stated that he made no statements to Hixon about having to find a reason for letting him go. He denied having said that he was in Birdsong's office 45 minutes trying to talk him out of letting Hixon go. Johnston stated that Hixon quit.

Concerning the letter written by Johnston to W. R. Bates postmarked March 6, 1970, in which Johnston wrote on Hixon's behalf concerning Hixon's work qualifications, Johnston testified that he wrote the letter at the request of Hixon, that Hixon called him on the telephone in the evening at home and asked Johnston to give him a letter of recommendation so he could get a job. Hixon requested that Johnston send the letter to W. R. Bates and gave him the address. According to Johnston, Hixon told Johnston that Bates was the manager of a mobile home plant and that he wanted the letter sent to Bates' home because the plant was not open on Saturday and he had to have the letter by Saturday so that Hixon could go to work Monday morning. Based on my observation of the witness, Johnston, as he testified, I do not credit his version of the events and conversations which preceded the discharge of Hixon and Vallecillo. While Johnston appeared outwardly calm as a witness, I was impressed with a lack of sincerity in Johnston's tone and am convinced that he was testifying with strain and contrivance. The very substance of his testimony concerning his alleged repeated checking and reprimanding of Hixon on February 11, 1970, while Hixon was engaged in a simple operation strains my credulity. I simply do not credit his testimony.

Crediting the testimony of Hixon, as explicated above, as to the events that transpired that day and not crediting the version of Johnston, the record establishes the fact that after Hixon had been asked by Slocum to change some gaslines which "weren't right" Johnston took Hixon into the personnel office and told Hixon that he had to lay him off. When queried for a reason, Johnston would give none, indicating essentially that he had been in Vice President Birdsong's office "trying to talk him out of it." Johnston told Hixon to punch out, Hixon picked up his check and his tools and left. Based on the record as a whole and my credibility findings explicated hereinabove, I am convinced and I find that Hixon did not quit his employment with the Respondent but was discharged by Johnston.

Turning to Vallecillo, I find that, on the morning of February 11, Johnston took Vallecillo off the work that he was performing and reassigned him to be broken in on hooking up lines. Later that day Johnston approached Vallecillo and told him he had to lay him off as there were not enough trailer sales. Vallecillo punched out, was paid, and left. I found Vallecillo to be sincere and straightforward as a witness, and I credit his version of the events and discussions which took place between he and Johnston.

Analysis, Discussion, and Concluding Findings

Ample credited testimony of record establishes the basic facts that the union activity herein commenced with the passing out of union material by Carpenter's Union 2093 to the employees of the Respondent as they left the plant on February 9, 1970. This was accomplished in the general vicinity of one of the Respondent's uniform guards, a dispatcher for the Respondent, and others. Hixon was one of those who received union material as he left the plant.

The very next day, February 10, 1970, in the afternoon, the Respondent's management summoned the employees by department to the lunchroom, where approximately 30 of the Respondent's employees were assembled in the presence of key company representatives, one of whom proceeded to address the group holding up one of the union pamphlets which had been passed out the preceding day and indicating essentially that he would be disappointed if the men went to a union when they could come directly to him.

That same evening after work Hixon and Vallecillo attended the union meeting in Chandler, where about 20 of the Respondent's employees gathered to meet with union representatives. After a discussion concerning the potential benefits deriving from union membership, the employees were offered cards to sign for the Union. Hixon broke the ice by signing the first card, all the others but two then signed. Vallecillo was among those signing.

The next day, February 11, 1970, around 8 a.m., Hixon was questioned by his supervisor, Bob Johnston, concerning his union activity of the preceding evening. This discussion took place in the presence of a group of employees. Both Hixon and Vallecillo stated that they had signed cards.

Having credited the testimony of Hixon and not that of Johnston, I find that around 8 a.m. on the morning of February 11, 1970, Foreman Johnston, in the presence of a group of employees, questioned Hixon concerning his union activities of the preceding evening and that the nature of such interrogation taking place in the presence of the other employees was such as to clearly create an impression of surveillance by the Respondent of the union activities of its employees. Cf. *International Typographical Union*, 183 NLRB No. 60. I find that by such action the Respondent interfered with, restrained, and coerced its employees in their exercise of activities protected by the Act in violation of Section 8(a)(1) of the Act. In crediting Hixon's testimony over that of Johnston, I am not unmindful of the testimony of Wilquet, an employee of the Respondent, who testified that he recalled the meeting that morning and who stated concerning the alleged questioning by Johnston relative to union activities that "I never heard him say a word." I was not impressed by Wilquet, who had difficulty recalling who was present at that meeting and whose testimony was marked by a lack of certainty. I do not credit Wilquet's testimony.

Turning to the discharge of Hixon, I have found that Hixon did not quit but was discharged, and I find that the rationale advanced by the Respondent as the basis for its contention, that Hixon's work on February 11, 1970, was of such unsatisfactory nature to warrant the behavior of Johnston in his continuing checking and reprimanding of

Hixon for Hixon's alleged failure to perform a simple operation in a satisfactory manner, strains my credulity. Accordingly, it is reasonable to infer, and I do, that the Respondent advanced this rationale as a pretext for the purpose of concealing the true reason for the discharge. *Shattuck Denn Mining Corp. v. N.L.R.B.*, 362 F.2d 466, 470 (C.A. 9). In the case at hand we are confronted with the classic chronology: the established status of Hixon as a satisfactory employee; Hixon's leading role in a developing union organizing campaign; knowledge on the part of the Respondent of this activity; the promptly ensuing unlawful interrogation by Foreman Johnston; the simple admission by Hixon that he had in fact signed a union card; followed almost precipitously, on the same day, by an unusual course of conduct by the foreman relative to Hixon; and finally the discharge of Hixon. I am convinced from ample credited testimony of record and I find that the Respondent in fact discharged Hixon because of his union activity and that the Respondent thereby discriminated against Hixon in the term, tenure, and condition of his employment and thereby interfered with, restrained, and coerced employees thereby engaging in unfair labor practices in violation of Section 8(a)(3) and 8(a)(1) of the Act.

Finally, with respect to the discharge of Vallecillo, I have credited Vallecillo's testimony as explicated hereinabove. The Respondent took the position with respect to the termination of Vallecillo that Vallecillo was a probationary employee and was terminated during the probationary period and that it was an established past practice of the Company. The record contains some evidence tending to establish a practice by the Respondent of hiring and terminating employees in a probationary period. Assuming *arguendo* that such a practice had been established, the existence of this past practice sheds very little light on the specific matter of the discharge of Vallecillo. For even if a justifiable or lawful reason for discharge exists, if the true motive for the discharge is, in whole or in part, discrimination against the employee because of activity protected by the Act, this constitutes an unfair labor practice within the meaning of Section 8(a)(3) and (1) of the Act. *N.L.R.B. v. Coal Creek Coal Co.*, 204 F.2d, 579, 583 (C.A. 10).

Taking into account the fact that Vallecillo participated in the union activity, attended the union meeting, and signed a card and that the Respondent with knowledge thereof promptly, as in the case of Hixon, proceeded to discharge him, the inference is inescapable that he was discharged because of his union activity. I was not persuaded on this record, in keeping with my evaluation of Johnston's credibility, that the Respondent discharged Vallecillo for cause. While it is true that an employer may discharge an employee for any cause or for no cause at all, it is well settled that it may not discharge an employee because of his activity protected by the Act.

Accordingly, I find that in discharging Hixon and Vallecillo on February 11, 1970, the Respondent committed unfair labor practices within the meaning of Section 8(a)(3) and (1) of the Act.

CONCLUSIONS OF LAW

1. The Respondent, Western Heritage Mobile Homes of

Arizona, Inc., is engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

2. The Union, Mill and Cabinet Local #2093, United Brotherhood of Carpenters and Joiners of America, is a labor organization as defined in Section 2(5) of the Act.

3. By discharging J. C. Hixon and Lupe Vallecillo February 11, 1970, the Respondent discriminated against employees with respect to hire, tenure, and other terms and conditions of employment in order to discourage membership in a labor organization and did interfere with, restrain, and coerce its employees in the exercise of rights guaranteed in Section 7 of the Act and thereby has engaged in unfair labor practices within the meaning of Section 8(a)(1) and 8(a)(3) of the Act.

4. By questioning employees about their union activities and by giving the impression of maintaining surveillance of the union activities of its employees, all on February 11, 1970, the Respondent did interfere with, restrain, and coerce its employees in the exercise of rights guaranteed in Section 7 of the Act and thereby has engaged in unfair labor practices within the meaning of Section 8(a)(1) of the Act.

5. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act.

THE REMEDY

It having been found that the Respondent has engaged in unfair labor practices in violation of Section 8(a)(1) and (3) of the Act, it will be recommended that Respondent cease and desist therefrom and take certain affirmative action designed to effectuate the policies of the Act. In view of the flagrant nature of the unlawful acts herein a broad cease and desist order is recommended.

It will be recommended that the Respondent offer J. C. Hixon and Lupe Vallecillo immediate and full reinstatement to their former or substantially equivalent positions, without prejudice to their seniority or other rights and privileges, and make them whole for any loss of earnings they may have suffered by reason of the discrimination against them from the date of the unlawful discharge to the date of reinstatement, less interim earnings, and in a manner consistent with Board policy set out in *F.W. Woolworth Company*, 90 NLRB 289, to which shall be added interest at the rate of 6 percent per annum as prescribed by the Board in *Isis Plumbing & Heating Co.*, 138 NLRB 716.

RECOMMENDED ORDER

Upon the basis of the above findings of fact and conclusions of law, and upon the entire record in this case, it is recommended that the Respondent, Western Heritage Mobile Homes of Arizona, Inc., its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

- (a) Interfering with, restraining, and coercing its employees in the exercise of activities protected by the Act by interrogation and by creating the impression of surveillance of protected activities, or by any other manner.

- (b) Discharging or otherwise discriminating against, or

refusing to reinstate, employees in order to discourage membership in or support of Mill and Cabinet Local #2093, United Brotherhood of Carpenters and Joiners of America, or any other labor organization, or because such employees engage in concerted activities under the Act

2. Take the following affirmative action which it is found will effectuate the purposes of the Act:

(a) Offer J. C. Hixon and Lupe Vallecillo immediate and full reinstatement to their former or substantially equivalent positions and make them whole for any loss of earnings they may have suffered by reason of the discrimination against them in accordance with the provisions of the section entitled "The Remedy" above.

(b) Preserve and, upon request, make available to the Board, or its agent, payroll and other records to facilitate the computation of backpay.

(c) Post at its premises at Chandler, Arizona, copies of the attached notice marked "Appendix."¹ Copies of said notice, on forms provided by the Regional Director for Region 28, after being duly signed by Respondent's 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 the Respondent to insure that said notices are not altered, defaced, or covered by any other material.

(d) Notify said Regional Director, in writing, within 20 days from the receipt of this Decision, what steps Respondent has taken to comply herewith.²

¹ In 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"

² In the event that this Recommended Order is adopted by the Board, this provision shall be modified to read "Notify said Regional Director, 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 discharge any of our employees because they join or engage in activities on behalf of Local 2093 or any other labor organization.

WE WILL NOT unlawfully interrogate or create the impression of surveillance of union activities of our employees nor in any other manner interfere with, restrain, or coerce our employees in the exercise of activities protected by the Act.

WE WILL offer J. C. Hixon and Lupe Vallecillo immediate and full reinstatement to their former jobs or equivalent ones and pay them backpay to cover the earnings they lost because we discharged them.

All our employees are free to become or remain or to refrain from becoming or remaining members of Mill and Cabinet Local #2093, United Brotherhood of Carpenters and Joiners of America or any other labor organization.

WESTERN HERITAGE
MOBILE HOMES OF
ARIZONA, INC.
(Employer)

Dated _____ By _____ (Representative) _____ (Title)

NOTE. We will notify the above-named employees if presently serving in the Armed Forces of the United States of their right to full reinstatement upon application in accordance with the Selective Service Act and the Universal Military Training and Service Act of 1948, as amended, after discharge from the Armed Forces.

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, 7011 Federal Building & U.S. Courthouse, 500 Gold Avenue, S.W., P O Box 2146, Albuquerque, New Mexico 87101, Telephone 505-843-2507.