

White Superior Division, White Motor Corporation and Herbert T. Baker, John E. Rightsell, Robert F. Langen, Paul A. Mealy, Virgil A. Young, John Yenko, Walter A. Lewe, and James Malahy.
Cases 9-CA-3922-1 through 8

March 13, 1969

SUPPLEMENTAL DECISION AND
ORDER

BY MEMBERS FANNING, JENKINS, AND ZAGORIA

On February 7, 1967, the National Labor Relations Board issued its Decision and Order in the above-entitled proceeding,¹ finding that Respondent violated Section 8(a)(3) and (1) of the Act by subcontracting its guard work and transferring its guard employees after the guards had sought collective bargaining through a union which also represented the production employees. Thereafter, the Board filed a petition for enforcement of the Order with the United States Court of Appeals for the Sixth Circuit. The court affirmed the Board's finding and enforced all aspects of the Board's Order except for the "Armed Services" notice, which it remanded to the Board for reconsideration.² As to that provision, the court noted:

While this may be a standard provision applicable to most situations, this seems to us in this case as

unnecessary prejudice that the guard unit will endure for a matter of, perhaps, years. We believe that both fairness and the appearance of fairness will be advanced if the Board explicitly conditions such a future right of reinstatement on the continued existence of the guard unit. Not wishing to draft any specific provision and for that matter, not knowing whether any of the affected employees are in the armed forces, we prefer to remand the matter to the Board for reconsideration in the light of these final comments.³

The Board⁴ has reexamined the provision in question and concludes that it is unnecessary and should be deleted in view of the fact that all the subject employees are between 57 and 63 years of age and that none of them is in the Armed Forces.

ORDER

Paragraphs 1 and 2 of the Board's Order of February 7, 1967, modifying the Trial Examiner's Recommended Order are hereby deleted.

¹162 NLRB 1496

²*NLRB v. White Superior Division, White Motor Corporation*, 404 F.2d 1100 (C.A. 6)

³404 F.2d 1100, 1104

⁴Pursuant 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.