

Valley Doctors Hospital, Inc., d/b/a Riverside Hospital and Thomas J. Morrison, Petitioner and International Union of Operating Engineers, Local No. 501, AFL-CIO. Case 31-RD-316

February 13, 1976

DECISION ON REVIEW

On August 14, 1975, the Regional Director for Region 31 issued his Decision and Order in the above-entitled proceeding, in which he dismissed the petition filed herein, finding that a contract bar exists. 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 of the Regional Director's decision on the ground that substantial issues are raised as to his finding that a contract bar exists.

By telegraphic order dated September 19, 1975, the Board granted the request for review. Thereafter the Employer and the Union filed briefs on review.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the entire record in this proceeding, including the briefs on review with respect to the issues under review, and makes the following findings:

The Employer and Local No. 501, the Union herein, were parties to a collective-bargaining agreement for the term December 1, 1972, to March 31, 1975. By letter dated December 5, 1974, the Union requested the Employer to enter into negotiations for a new agreement stating that if the Employer and the Union failed to reach agreement by March 31, 1975, the existing agreement was to be considered terminated. Although no agreement was reached by March 31, 1975, the parties continued negotiations, and, on May 1, 1975, the Employer mailed its contract proposal to the Union accompanied by a covering letter signed by the Employer's counsel, which stated, in part, as follows:

I enclose two copies of the contract proposal which you requested at the last negotiating session. . . .

The employer is prepared to meet with you for the purpose of answering any questions which you may have about its proposal, or for the purpose of receiving any counter-proposals which the union may wish to make. If it is your intention to submit this proposal to the members of the bargaining unit without making any counter-proposal, we would appreciate your so advising us. If the proposal is rejected as a result of being submitted to the members of the bargaining unit without a counter-proposal being made by the union to the employer the proposal should be deemed withdrawn as of the time of such rejection.

If the proposal is accepted in its entirety, please contact me for the purpose of arranging to have the new agreement executed.

On May 7, 1975, the employees in the bargaining unit voted to ratify acceptance of the Employer's proposed contract, and, thereafter, on the same day the Union advised the Employer by telephone of its action. On May 8, 1975, the Petitioner filed his petition in the instant matter. On May 14, 1975, the Union mailed to the Employer a copy of the newly agreed-upon contract, which shows that it was signed by the Union's representatives on May 7, 1975.

Upon consideration of the record herein, we conclude, in accord with the Regional Director, that the submission of the Employer's contract proposals with the covering letter bearing the Employer's signature, and the subsequent ratification and signing of those proposals by the Union prior to the filing of the petition is sufficient to satisfy the Board's contract-bar rules under *Appalachian Shale Products Co.*, 121 NLRB 1160 (1958). As stated by the Regional Director, in order to constitute a bar a contract need not be encompassed within a single formal document but may consist of an exchange of a written proposal and a written acceptance. Here, we find that the Employer's signed cover letter accompanying its proposal, coupled with the Union's execution of the proposal prior to the filing of the petition, satisfies the signing requirements in order to provide bar quality to the contract.

Accordingly, we find that the recent contract between the Union and the Employer is a bar to these proceedings and we affirm the Regional Director's dismissal of the petition.