

Pajo Printing Inc d/b/a Westport Printing and Pressmen's Local No 16, affiliated with International Printing and Graphic Communications Union, AFL-CIO Case 17-CA-6918

June 17, 1976

DECISION AND ORDER

BY MEMBERS FANNING, PENELLO, AND WALTHER

Upon a charge filed on January 8, 1976, by Pressmen's Local No 16, affiliated with International Printing and Graphic Communications Union, AFL-CIO, herein called the Union, and duly served on Pajo Printing Inc d/b/a Westport Printing, herein called the Respondent, the General Counsel of the National Labor Relations Board, by the Regional Director for Region 17, issued a complaint and notice of hearing on February 19, 1976, against Respondent, alleging that Respondent had engaged in and was engaging in unfair labor practices affecting commerce within the meaning of Section 8(a)(3) and (1) and Section 2(6) and (7) of the National Labor Relations Act, as amended. Copies of the charge, complaint, and notice of hearing before an Administrative Law Judge were duly served on the parties to this proceeding.

With respect to the unfair labor practices, the complaint alleges in substance (1) that on or about November 1 and 7, 1975, Respondent interrogated an employee and threatened to postpone and withdraw raises because of union and other protected concerted activities of its employees and stated to an employee that it would lose its customers and be forced to go out of business if the employees selected the Union as their exclusive bargaining representative, and (2) that on or about November 21, 1975, Respondent discharged employee Russell Hylton, and since then has failed and refused, and continues to fail and refuse, to reinstate him to his former position of employment because of his union and other protected concerted activities. Respondent failed to file an answer.

On March 18, 1976, counsel for the General Counsel filed directly with the Board a Motion for Summary Judgment. Subsequently, on March 26, 1976, the Board issued an order transferring the proceeding to the Board and a Notice To Show Cause why the General Counsel's Motion for Summary Judgment should not be granted. Respondent did not file a response to the Notice To Show Cause so that the allegations of the Motion for Summary Judgment stand uncontroverted.

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.

Upon the entire record in this proceeding, the Board makes the following

Ruling on the Motion for Summary Judgment

Section 102.20 of the Board's Rules and Regulations provides

The respondent shall, within 10 days from the service of the complaint, file an answer thereto. The respondent shall specifically admit, deny, or explain each of the facts alleged in the complaint, unless the respondent is without knowledge, in which case the respondent shall so state, such statement operating as a denial. All allegations in the complaint, if no answer is filed, or any allegation in the complaint not specifically denied or explained in an answer filed, unless the respondent shall state in the answer that he is without knowledge, shall be deemed to be admitted to be true and shall be so found by the Board, unless good cause to the contrary is shown.

The complaint and notice of hearing served on Respondent specifically stated that unless an answer to the complaint was filed within 10 days of service thereof "all of the allegations in the complaint shall be deemed to be admitted to be true and may be so found by the Board." Further, according to the uncontroverted allegations of the Motion for Summary Judgment, the Respondent, by its counsel, Darwin Johnson, in a telephone conversation with counsel for the General Counsel on March 5, 1976, stated that the Respondent was not going to file an answer to the complaint and that the Respondent had no objection to the Board entering its Order upon said complaint.

In view of Respondent's failure to answer, under the rule set forth above, no good cause having been shown for such failure, the allegations of the complaint are deemed admitted and are found to be true. Accordingly, we shall grant the Motion for Summary Judgment.

On the basis of the entire record, the Board makes the following

FINDINGS OF FACT

I THE BUSINESS OF THE RESPONDENT

The Respondent, a corporation, is engaged in the general printing and bindery business at its Kansas

City, Missouri, facility, the only facility involved herein. In the course and conduct of its business operations during the past 12 months, a representative period, the Respondent sold goods and services valued in excess of \$50,000 to customers located in the State of Missouri who, in turn, made direct sales valued in excess of \$50,000 to customers located outside the State of Missouri.

We find, on the basis of the foregoing, that Respondent is, and has been at all times material herein, an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act, and that it will effectuate the policies of the Act to assert jurisdiction herein.

II THE LABOR ORGANIZATION INVOLVED

Pressmen's Local No. 16, affiliated with International Printing and Graphic Communications Union, AFL-CIO, is a labor organization within the meaning of Section 2(5) of the Act.

III THE UNFAIR LABOR PRACTICES

A *The Independent 8(a)(1) Violations*

On or about November 1 and 7, 1975, Respondent interrogated an employee concerning his union and other protected activities, threatened employees with postponement and withdrawal of raises because of their union and other protected concerted activities, and told an employee that Respondent would lose customers and be forced to go out of business if the employees selected the Union as their exclusive bargaining representative.

Accordingly, we find that by the aforesaid conduct Respondent has interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed them under Section 7 of the Act, and by such conduct Respondent has engaged in unfair labor practices within the meaning of Section 8(a)(1) of the Act.

B *The 8(a)(3) and (1) Violations*

On or about November 21, 1975, Respondent discharged employee Russell Hylton, and since then has failed and refused, and continues to fail and refuse, to reinstate him to his former position of employment because of his union and other protected concerted activities.

Accordingly, we find that by its aforesaid discharge of employee Russell Hylton, and by its failure and refusal to reinstate said employee, the Respondent discriminated in regard to the terms and condi-

tions of employment of its employee, thereby discouraging membership in a labor organization and that, by such conduct, the Respondent engaged in and is engaging in unfair labor practices within the meaning of Section 8(a)(3) and (1) of the Act.

IV THE EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

The activities of Respondent, set forth in section III, above, occurring in connection with its operations described in section I, above, have a close, intimate, and substantial relationship to trade, traffic, and commerce among the several States and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

V THE REMEDY

Having found that Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8(a)(3) and (1) of the Act, we shall order that it cease and desist therefrom, and that it take certain affirmative action as set forth below designed to effectuate the purposes and policies of the Act.

Having found that Respondent violated Section 8(a)(3) and (1) of the Act by discharging and refusing to reinstate Russell Hylton, we shall order Respondent to offer him immediate and full reinstatement to his former position or, if that position no longer exists, to a substantially equivalent position, without prejudice to any seniority or other rights and privileges enjoyed and to make him whole for any loss of earnings he may have suffered as a result of his termination by paying to him a sum of money equal to that which he normally would have earned as wages from the date of his termination until the date of Respondent's offer of reinstatement, less his net earnings during such period with backpay and interest thereon to be computed in the manner prescribed in *F W Woolworth Company*, 90 NLRB 289 (1950), and *Isis Plumbing & Heating Co.*, 138 NLRB 716 (1962).

The Board, upon the basis of the foregoing facts and the entire record, makes the following

Conclusions of Law

1 Pajo Printing Inc d/b/a Westport Printing is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

2 Pressmen's Local No. 16, affiliated with International Printing and Graphic Communications

Union, AFL-CIO, is a labor organization within the meaning of Section 2(5) of the Act

3 By the acts described in section III, A, above, Respondent has interfered with, restrained, and coerced, and is interfering with, restraining, and coercing, employees in the exercise of the rights guaranteed in Section 7 of the Act and has thereby engaged in, and is thereby engaging in, unfair labor practices within the meaning of Section 8(a)(1) of the Act

4 By the acts described in section III, B, above, Respondent has discriminated, and is discriminating, in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization and has thereby engaged in, and is thereby engaging in, unfair labor practices within the meaning of Section 8(a)(3) and (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

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that the Respondent, Pajo Printing Inc d/b/a Westport Printing, Kansas City, Missouri, its officers, agents, successors, and assigns, shall

1 Cease and desist from

(a) Interrogating employees because of their union and other protected concerted activities

(b) Threatening employees with postponement and withdrawal of raises because of their union and other protected concerted activities

(c) Stating to employees that it would lose its customers and be forced to go out of business if the employees selected the Union as their exclusive bargaining representative

(d) Discharging and refusing to reinstate employees because of union and other protected concerted activities

(e) Discouraging membership in Pressmen's Local No 16, affiliated with International Printing and Graphic Communications Union, AFL-CIO, or any other labor organization, by discriminatorily discharging employees and failing or refusing to reinstate them, or by otherwise discriminating in regard to hire to tenure of employment or any term or condition of their employment

(f) In any other manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them in Section 7 of the Act

2 Take the following affirmative action which is necessary to effectuate the policies of the Act

(a) Offer to Russell Hylton immediate and full reinstatement to his former position or, if that position no longer exists, to a substantially equivalent position, without prejudice to any seniority or other rights and privileges previously enjoyed, and make him whole for any loss of pay suffered as a result of his discharge by Respondent in the manner set forth above under the section entitled "The Remedy"

(b) Preserve and, upon request, make available to the Board or its agents, for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to analyze the amount of backpay due under the terms of this Order

(c) Post at its Kansas City, Missouri, facility copies of the attached notice marked "Appendix"¹ Copies of said notice, on forms provided by the Regional Director for Region 17, after being duly signed by Respondent's representative, shall be posted by Respondent 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

(d) Notify the Regional Director for Region 17, in writing, within 20 days from the date of this Order, what steps have been taken to comply herewith

¹ In the event that this 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 read Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

WE WILL NOT interrogate employees because of their union and other protected concerted activities

WE WILL NOT threaten employees with postponement and withdrawal of raises because of their union and other protected concerted activities

WE WILL NOT state to employees that we will lose our customers and be forced to go out of business if the employees select the Union as their exclusive bargaining representative

WE WILL NOT discharge and refuse to reinstate employees because of union and other protected concerted activities

WE WILL NOT discourage membership in Pressmen's Local No 16, affiliated with International Printing and Graphic Communications Union, AFL-CIO, or any other labor organization, by discriminatorily discharging employees and failing or refusing to reinstate them, or by otherwise discriminating in regard to hire or tenure of employment or any term or condition of their employment

WE WILL NOT in any other manner interfere with, restrain, or coerce employees in the exer-

cise of the rights guaranteed them in Section 7 of the Act

WE WILL offer to Russell Hylton immediate and full reinstatement to his former position or, if that position no longer exists, to a substantially equivalent position, without prejudice to any seniority or other rights and privileges previously enjoyed, and WE WILL make him whole for any loss of pay suffered as a result of his discharge with interest at 6 percent per annum

PAJO PRINTING INC d/b/a WESTPORT PRINT
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