

Allied Industrial Workers of America, AFL-CIO, and its Local Union No. 594 (Warren Molded Plastics Incorporated) and Delores Thorp. Case 8-CB-2937

January 26, 1977

DECISION AND ORDER

BY MEMBERS FANNING, PENELLO, AND
WALTHER

Upon a charge and amended charge filed on December 17, 1975, and June 18, 1976, respectively, by Delores Thorp, an individual, served on Allied Industrial Workers of America, AFL-CIO, and its Local Union No. 594,¹ the General Counsel of the National Labor Relations Board, by the Regional Director for Region 8, issued a complaint and notice of hearing on June 30, 1976, against Respondent, alleging that Respondent had engaged in and was engaging in unfair labor practices affecting commerce within the meaning of Section 8(b)(1)(A) and Section 2(6) and (7) of the National Labor Relations Act, as amended.

On July 14, 1976, Respondent filed an answer, admitting in part and denying in part the allegations of the complaint, submitting affirmative defenses, and requesting that the complaint be dismissed in its entirety.

Thereafter, on September 15, 1976, the Respondent filed with the Board in Washington, D.C., a Motion for Summary Judgment and a memorandum in support thereof, with exhibits. Among other grounds, the Respondent moves the Board for a summary judgment because the alleged unfair labor practice set forth in the complaint and notice of hearing occurred more than 6 months prior to the filing of the charge with the Board and the service of a copy thereof on the Respondent.

On September 23, 1976, counsel for the General Counsel of the National Labor Relations Board filed a memorandum in opposition to Respondent's Motion for Summary Judgment.

Subsequently, on September 24, 1976, the Board issued an order transferring the proceeding to the Board and a Notice To Show Cause why the Respondent's Motion for Summary Judgment should not be granted.

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

On the issue of whether the amended charge is, in effect, a new charge time-barred by Section 10(b) of the Act, Respondent contends that the specific allegations of the original charge filed December 17, 1975, related only to the Respondent bringing intra-union charges against the Charging Party and its levying excessive fines against her because of her activities in behalf of another union, and made no reference, direct or indirect, to any other unlawful conduct. The amended charge alleging, for the first time, Respondent's attempt to prevent the Charging Party from participating in a union membership meeting held June 27, 1975, and the use of undue force in attempting to expel her from said meeting, was filed on June 18, 1976. Since more than 6 months had elapsed from the time of the acts complained of to the filing of the amended charge, Respondent contends that further proceeding with respect to the complained-of action which occurred on or about June 27, 1975, are precluded by the provisions of Section 10(b) of the Act.

General Counsel opposes the Motion for Summary Judgment, contending that the first paragraph of the original charge, setting forth a broad general allegation of 8(b)(1)(A) restraint and coercion, is sufficiently broad to encompass any violation of that section of the Act and that the amended charge contains that same broad allegation as well as a specific allegation regarding the same, the latter appearing in paragraph 9 of the complaint.

We agree with Respondent that the original and amended charges allege distinct and separate violations even though the broad language concerning 8(b)(1)(A) restraint and coercion of Thorp in the exercise of her Section 7 rights appears in both. In effect the amended charge contains new matter and omits the specifics of the original charge, as does the complaint. We therefore conclude that further proceedings with respect to the treatment of Thorp at the June 27, 1975, union meeting as alleged in the complaint and necessarily based on the amended charge of June 18, 1976, are precluded by the provisions of Section 10(b) of the Act. See *Hunter Saw Division of Asko, Inc.*, 202 NLRB 330, fn. 1 (1973). Therefore, we grant Respondent's Motion for Summary Judgment.

¹ It appears that Respondent Union may have responded to the original charge despite the misnomer of Local 243. In view of our dismissal of the

complaint without a hearing, we do not reach the issue of proper service of the original charge.

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor

Relations Board grants Respondent's Motion for Summary Judgment and hereby orders that the complaint herein be, and it hereby is, dismissed.