

Washington Stair and Iron Works, Inc. and International Association of Bridge, Structural and Ornamental Ironworkers, Shopmen's Local Union No. 486, AFL-CIO. Cases 5-CA-17034 and 5-CA-17269

31 August 1987

DECISION AND ORDER

BY CHAIRMAN DOTSON AND MEMBERS
JOHANSEN AND BABSON

On 4 November 1986 Administrative Law Judge James J. O'Meara issued the attached decision. The General Counsel filed exceptions and a supporting brief, and the Respondent filed cross-exceptions, a supporting brief, and a brief in response to the General Counsel's exceptions.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the decision and the record in light of the exceptions and briefs¹ and has decided to affirm the judge's rulings, findings,² and conclusions only to the extent consistent with this Decision and Order.

I. THE COLLECTIVE-BARGAINING CONTRACT³

The most recent collective-bargaining agreement between the Respondent and the Union expired on

¹ The Respondent has requested oral argument. The request is denied as the record, exceptions, and briefs adequately present the issues and the positions of the parties.

The Respondent has attempted to renew its motion made in its post-hearing brief that, pursuant to Sec. 102.37 of the Board's Rules and Regulations, the judge be disqualified. Although acknowledging the judge expressed no outward bias, the Respondent contends the judge made several ill-considered and premature rulings that had the effect of denying the Respondent its right to a fair trial.

At the outset we note that this motion was untimely raised inasmuch as the Respondent failed to comply with the procedural constraints of Sec. 102.37 of the Board's Rule's and Regulations. Sec. 102.37 requires that any party wishing to request a judge to withdraw from a case must do so before the filing of his decision by filing with the judge promptly on the discovery of the alleged facts, "a timely affidavit setting forth in detail the matters alleged to constitute grounds for disqualification." The Respondent did not file such an affidavit and raised the issue for the first time in its brief to the judge. Moreover, the record is devoid of evidence that the judge prejudged the case, but is replete with evidence that the Respondent continued its attempt to relitigate the issue of whether the 15 November 1984 settlement agreement constituted a contract. The judge based his rulings on the previous finding by the Board that the settlement agreement constituted a contract. We therefore find no merit in the Respondent's contention that the judge prejudged this case. Accordingly, we find no basis on which to disqualify the judge.

² The General Counsel excepts, inter alia, to the judge's failure to segregate from the transcript of the hearing the matters introduced by the Respondent as an "offer of proof." We find no merit in this exception as the failure to segregate the offer of proof does not constitute prejudicial error.

The judge inadvertently stated that the attempt to rescind the agreement violated "Section 8(a)(1) and 8(a)" when it is clear in context that he meant to find that the Respondent violated "Section 8(a)(1) and 8(a)(5)."

³ The facts set forth in this portion of the decision are based on uncontroverted testimony in the record.

30 September 1983. The parties negotiated for a new contract through the latter part of 1983, but failed to reach an agreement. On 15 November 1984, however, the parties signed a settlement agreement which, inter alia, incorporated by reference their most recently expired agreement and set forth the changes and modifications to that agreement agreed on by the parties.

At the end of December 1984 the Union prepared a written contract that incorporated in final form the provisions of the 15 November agreement and delivered the written contract to the Respondent for signature. The Respondent refused to sign the written contract.

The judge noted that in Case 5-RD-874 the Board found the 15 November settlement agreement to be a valid and binding collective-bargaining agreement. The judge, however, found that the Respondent, having signed this agreement, was not also obligated to sign the December 1984 written contract.

Contrary to the judge, we find that the Respondent's refusal to execute the December 1984 written contract violated Section 8(a)(5) and (1). Section 8(d) imposes on either party to a collective-bargaining agreement the duty to execute a written contract incorporating in one document the provisions agreed to, if so requested, by the other party.⁴ In December 1984 the Union simply requested that the Respondent satisfy this 8(d) obligation. The Respondent refused. In refusing the Union's request, the Respondent failed to comply with the duty imposed on it by Section 8(d) and thereby violated Section 8(a)(5) and (1).⁵

II. ALLEGED CHANGE IN ACCESS POLICY

The complaint alleges that the Respondent violated Section 8(a)(5) and (1) by promulgating a policy that forbids union agents access to its facility, contrary to section 22 of its collective-bargaining agreement. Relying solely on the text of section 22 the judge found the violation after having concluded that the alleged policy change was a rule contrary to this section of the collective-bargaining agreement. For reasons set out below, we find that the evidence presented by the General Counsel is insufficient to establish that the Respondent's conduct violated Section 8(a)(5) and (1) of the Act.

The record indicates that, after the expiration of its collective-bargaining agreement on 30 September 1983, the Respondent ceased deducting union dues from its employees' paychecks. After the par-

⁴ *Kennebec Beverage Co.*, 248 NLRB 1298 (1980), see generally *Clothing Workers v. NLRB*, 324 F.2d 228 (2d Cir. 1963).

⁵ *Diplomat Envelope Corp.*, 263 NLRB 525, 540-541 (1982).

ties entered into the 15 November 1984 settlement agreement, which reinstated the union-security clause, the union president, business agent, financial secretary, and treasurer, Ray E. Owens Jr., notified the Respondent's general manager, Richard Tacik, that he would be making plant visitations. On 4 January 1985 Owens visited the Respondent's plant and informed Werner Umlandt, the plant manager, that he was there to meet with the employees during their lunchbreak to get them to fill out union membership applications and union dues-checkoff authorizations. Umlandt consented.

Owens testified that on 25 January 1985 he returned to the plant in an effort to reach those employees who were not present during his earlier visit and to ask any of the employees if they had any problems that they would like to discuss. He stopped at the office and told Umlandt that he was there "to meet and visit with the employees," to which Umlandt responded, "No, you cannot meet with the employees any more, [you will] have to call them to the union hall. [You will] not be allowed on the premises to meet with the employees." Owens left the plant without further discussion and without speaking to any of the employees.

Armond Garcia, one of the Respondent's employees and another General Counsel witness, testified with the aid of an interpreter that, at the employee meeting held during the afternoon of 25 January, Umlandt told the assembled employees that "there would be no further representations of the Union in the cafeteria while the affair of the contracts was not settled."⁶ Garcia also testified that in the past union representatives had not met with the employees in the company cafeteria, but would come in and leave bulletins on the board to notify employees of matters pertaining to the Company.

Section 22 of the collective-bargaining agreement states:

An authorized representative of the Union shall be permitted to visit the office of the Company at all reasonable hours and after notifying a representative of the Company, designated by it for such purpose, *will be permitted to visit the Company's shop during working hours to investigate any matter covered by this agreement, but he shall in no way interfere with the progress of the work.* [Emphasis added.]

⁶ With respect to the 25 January meeting, Umlandt testified that "I told everybody at this meeting that as for signing up and the union business that was going on for the last couple of weeks that caused interruptions in production and all the rest of it, that I would not allow any more mass meetings in the lunchroom and that these interruptions the way we had them before are going to be eliminated no matter what I had to do, and that if Roy Owens operates like he does then he will not be allowed to come back to the plant."

Relying solely on the text of section 22, the judge found the violation after having concluded that the alleged policy change was a rule contrary to this section of the collective-bargaining agreement.

In our view, section 22 of the collective-bargaining agreement limits union visits to investigations of matters arising from the collective-bargaining agreement. Owens' attempt to gain signatures on membership or checkoff forms, the acknowledged reason for his visit to the company plant on 25 January, does not qualify as an "investigation." Accordingly, we find that by denying Owens permission to meet with the employees on 25 January 1985, the Respondent did not, contrary to section 22 of the collective-bargaining agreement, promulgate a policy forbidding access to the Respondent's facility. Accordingly, we dismiss this allegation of the complaint.⁷

AMENDED CONCLUSIONS OF LAW⁸

1. Substitute the following for paragraph 4.

"4. The Respondent bypassed the Union and dealt directly with its employees in the unit by promising and then granting them a wage increase and thus violated Section 8(a)(5) and (1) of the Act."

2. Substitute the following for paragraphs 5 and 6.

"5. The Respondent rescinded the settlement agreement of 15 November 1984 and thus violated Section 8(a)(5) and (1) of the Act.

"6. The Respondent refused to execute the collective-bargaining agreement prepared pursuant to the 15 November 1984 settlement agreement between the Respondent and the Union and thus violated Section 8(a)(5) and (1) of the Act."

AMENDED REMEDY

Having found that the Respondent has violated Section 8(a)(5) and (1) of the Act, we shall require that the Respondent cease and desist from its unfair labor practices and that it take affirmative action

⁷ Member Babson would adopt the judge's conclusion that the Respondent violated Sec 8(a)(5) and (1) of the Act by promulgating a policy forbidding the Union access to its facility. Member Babson finds his colleagues' reading of sec 22 of the parties' collective-bargaining agreement is unduly restrictive and inconsistent with the Respondent's practice. Moreover, it appears from a *literal* reading of the Respondent's denial of access that the Union would be denied *all* access until the issue of the contracts was settled.

Chairman Dotson and Member Johansen, on the other hand, note that the record, as summarized above, is at best ambiguous as to the Respondent's practice with respect to union access to the plant. Moreover, contrary to Member Babson's characterization, the record evidence set forth above indicates that the Union would not be denied *all* access to the plant, but only such access that tended to interrupt production.

⁸ The judge failed to include in his Conclusions of Law his findings regarding the Respondent's rescission of the November 1984 agreement and its direct dealing with employees.

designed to effectuate the purposes and policies of the Act.

We have found that the Respondent and the Union reached an agreement with respect to the terms and conditions of employment for the employees in the unit represented by International Association of Bridge, Structural and Ornamental Ironworkers, Shopmen's Local Union No. 486, AFL-CIO and that the Respondent has failed in its statutory duty to bargain collectively with the Union by refusing to execute the written contract incorporating the terms of their settlement agreement, by bypassing the Union and dealing directly with the unit employees, by unilaterally implementing a wage increase and, thereafter, by withdrawing recognition of the Union as its employees' exclusive representative.

We will order the Respondent, on request, to execute the collective-bargaining agreement embodying the terms of the 15 November 1984 settlement agreement, to comply with all provisions thereof retroactive to 15 November 1984,⁹ and recognize and, on request, bargain collectively with the Union, and to make whole all its employees for any losses they may have suffered as a result of the Respondent's failure to sign or to honor the written collective-bargaining agreement, with interest, in the manner set forth in *Ogle Protection Service*, 183 NLRB 682 (1970), with interest to be computed in the manner prescribed in *New Horizons for the Retarded*.¹⁰

ORDER

The National Labor Relations Board orders that the Respondent, Washington Stair and Iron Works, Inc., Glen Burnie, Maryland, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Refusing to recognize and bargain with International Association of Bridge, Structural and Ornamental Ironworkers, Shopmen's Local Union No. 486, AFL-CIO, as the exclusive bargaining representative of its employees, in the bargaining

unit described below, with regard to wages, hours, and other terms and conditions of employment.

(b) Rescinding the 15 November 1984 settlement agreement.

(c) Failing and refusing to execute a written contract embodying the provisions agreed on by it and the Union.

(d) Bypassing the Union and dealing directly with its unit employees.

(e) Unilaterally implementing a wage increase without giving the Union notice and an opportunity to bargain.

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

2. Take the following affirmative action necessary to effectuate the policies the Act.

(a) On request of International Association of Bridge, Structural and Ornamental Ironworkers, Shopmen's Local Union No. 486, AFL-CIO, execute the collective-bargaining agreement embodying the terms of the 15 November 1984 settlement agreement.

(b) Retroactive to 15 November 1984, give effect to the terms and conditions of the collective-bargaining agreement embodying the terms of the 15 November 1984 settlement agreement and make whole its employees for any losses suffered by reason of the Respondent's failure to honor the collective-bargaining agreement.

(c) Recognize and, on request, bargain collectively with International Association of Bridge, Structural and Ornamental Ironworkers, Shopmen's Local Union No. 486, AFL-CIO as the exclusive representative of the employees in the following appropriate unit on terms and conditions of employment and, if an understanding is reached, embody the understanding in a signed agreement:

All production and maintenance employees engaged in the fabrication of iron, steel and metal products, or in maintenance work in or about the Respondent's plant or plants located at 521 DiGiulian Boulevard, Glen Burnie, Maryland and vicinity, but excluding all office clerical employees, draftsmen, engineering employees, watchmen, guards, supervisors, and employees engaged in erection, installation or construction work.

(d) Preserve and, on 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

⁹ The General Counsel has requested that we find that the contract remains in effect because the agreement by its terms automatically renews unless either party gives notice of its desire to change or terminate the contract. We are ordering the Respondent to honor the terms of the contract. We find it unnecessary at this stage of the proceeding to determine the precise effect of the various terms of that agreement.

¹⁰ Interest will be computed in accordance with our decision in *New Horizons for the Retarded*, 283 NLRB 1173 (1987). Interest on amounts accrued prior to 1 January 1987 (the effective date of the 1986 amendment to 26 U.S.C. § 6621) shall be computed in accordance with *Florida Steel Corp.*, 231 NLRB 651 (1977).

The General Counsel requests a visitatorial clause authorizing the Board, for compliance purposes, to obtain discovery from the Respondent under the Federal Rules of Civil Procedure under the supervision of the United States court of appeals enforcing this Order. Under the circumstances of the case, we find it unnecessary to include such a clause. Accordingly, we deny the General Counsel's request.

amount of backpay due under the terms of this Order.

(e) Post at its facility in Glen Burnie, Maryland, copies of the attached notice marked "Appendix."¹¹ Copies of the notice, on forms provided by the Regional Director for Region 5, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

(f) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

¹¹ If 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

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT refuse to recognize and bargain with International Association of Bridge, Structural and Ornamental Ironworkers, Shopmen's Local Union No. 486, AFL-CIO, as the exclusive bargaining representative of our employees in the bargaining unit described below with regard to wages, hours, and other terms and conditions of employment.

WE WILL NOT fail and refuse to execute a written contract embodying the provisions agreed to by us and the Union.

WE WILL NOT bypass the Union and deal directly with our unit employees.

WE WILL NOT unilaterally implement a wage increase without giving the Union notice or an opportunity to bargain.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL give effect retroactive to 15 November 1984 to the terms and conditions of employment of

the collective-bargaining agreement embodying the terms of the 15 November 1984 settlement agreement and we will make whole our employees for any losses suffered by reason of our failure to honor the collective-bargaining agreement.

WE WILL, on request of the Union, forthwith execute the written contract embodying the provisions agreed on by us and the Union.

WE WILL recognize and, on request, bargain collectively with International Association of Bridge, Structural and Ornamental Ironworkers, Shopmen's Local Union No. 486, AFL-CIO as the exclusive representative of employees in the following appropriate unit with regard to their wages, hours, and other terms and conditions of employment and, if an understanding is reached, embody the understanding in a signed agreement:

All production and maintenance employees engaged in the fabrication of iron, steel, and metal products, or in maintenance work in or about the Employer's plant or plants located at 521 DiGiulian Boulevard, Glen Burnie, Maryland and vicinity, but excluding all office clerical employees, draftsmen, engineering employees, watchmen, guards, supervisors, and employees engaged in erection, installation or construction work.

WASHINGTON STAIR AND IRON-
WORKS, INC.

Carol A. Baumerich, Esq., for the General Counsel.
Gary L. Lieber, Esq., of Washington, D C., for the Respondent.

DECISION

STATEMENT OF THE CASE

JAMES J. O'MEARA, JR., Administrative Law Judge. Upon a charge filed on 15 February 1985 by International Association of Bridge, Structural and Ornamental Ironworkers, Shopmen's Local Union No 486, AFL-CIO (the Union) a complaint was issued in Case 5-CA-17034 against Washington Stair and Iron Works, Inc. (Respondent) A second complaint, Case 5-CA-17269, based on a charge filed by the Union against Respondent on 20 May 1985, was ordered consolidated and was tried as a consolidated complaint. Each complaint alleged violations by Respondent of Section 8(a)(1) and (5) of the Act.

The Respondent, in its answer, denied that it had violated the Act, and affirmatively alleged that it had a good-faith doubt that the Union represented a majority of the employees in the previously established bargaining unit

The cases were heard by me in the city of Washington, D C. on 21 January 1986 and on 12, 13, and 26 March 1986. The parties were given an opportunity to

present evidence and argue their respective positions. At the termination of the hearing, the parties waived oral argument and filed briefs, which have been received and duly considered.

Based on the evidence of record, including the testimony and demeanor of the witnesses, and in consideration of briefs filed by the parties I make the following

FINDINGS OF FACT

I JURISDICTION

The General Counsel has alleged, the Respondent has admitted, and I find that the Respondent is a Maryland corporation with place of business in Glen Burnie, Maryland.

During the preceding 12-month period, which I find to be a representative period, the Respondent, in the course and conduct of its business operations, sold and shipped from its Glen Burnie, Maryland facility goods valued in excess of \$50,000 directly to customers located outside the State of Maryland.

I find that the Respondent is now, and has been at all times material, an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

I further find that it will effectuate the policies of the Act to assert jurisdiction in this case.

II. THE UNION

The Union is, and at all times material was, a labor organization within the meaning of Section 2(5) of the Act.

III THE LIMITATION OF PROOF

The Respondent has answered the complaint of the General Counsel by a denial of material allegations and the pleading of an affirmative defense. The affirmative defense so pleaded alleges that the Respondent has a "good faith doubt that the union continued to represent a majority of the employees in the previously-established bargaining unit" and that the good-faith doubt privileged the employer from negotiating with the Union and permitted its withdrawal of recognition. On motion of counsel for the General Counsel, it has ordered that the Respondent's newly discovered evidence would not be permitted to relitigate the issue of the validity of a collective-bargaining agreement of 15 November 1984 between the parties. (Respondent contends no newly discovered evidence be available to this record.)¹

The existence and validity of a binding collective-bargaining agreement, which has been adjudicated by the Board in a previous preceeding, cannot be the subject matter of a here resolved legal issue. Therefore, the motion of the General Counsel is granted, the second de-

fense of Respondent is dismissed, and the Respondent's offer of proof is denied.

IV THE COMPLAINT

The complaint alleges that the Respondent has refused to execute a written contract embodying the settlement agreement of 15 November 1984 and including, by reference, the written agreement under which the parties had operated. These documents comprise the signed settlement agreement together with the collective-bargaining agreement that was incorporated into the settlement agreement by reference. The two documents must be construed as one and considered as one. The document labeled as the "Settlement Agreement" between the parties is dated November 15, 1984, and signed by the Union and the executive vice president and general manager of the Respondent. It incorporates by reference the provisions of the collective-bargaining agreement between the parties, which had immediately preceded it. It is this agreement that the Board has ruled to be a valid collective-bargaining agreement between the parties. The signing, by the Respondent's officer, of that document, which has been adjudicated to be a valid and binding collective-bargaining agreement between the parties, is compliance with the requirement of Section 8(d) that the agreement be reduced in writing on demand of either party. Therefore, the refusal to sign a second document does not constitute a violation of the Act and the Respondent has not violated Section 8(a)(5) of the Act in its refusal to sign the presented agreement.

The complaint also alleges that the Respondent violated Section 8(a)(5) by unilaterally rescinding the collective-bargaining agreement of 15 November 1984. A decertification petition was filed by the employees of Respondent. The General Counsel argues, correctly, that the valid and binding collective-bargaining agreement is a "contract bar" to the decertification petition and any challenge to the union majority. Thus the unilateral rescission by Respondent on 13 December 1984 of the agreement is a violation of Section 8(a)(5) of the Act.

A further allegation contained in the complaint alleged that the Respondent dealt directly with the employees about a pay raise and informed them of a pending pay increase thus bypassing the Union, and also, about 1 February 1985, by implementing such increases, all without negotiating with the Union as the existing contract required.

About 25 January 1985 Plant Manager Werner Umlandt held a meeting with employees. This was a meeting for Respondent's employees to go over general problems. Umlandt announced at the meeting that the Respondent would give all employees a 3-percent wage increase to be effective 1 February 1985. This was not a merit raise because all received it and it was of the same amount to each employee. This wage increase was like no prior increase given by the Company. Its prior increase in wages was for "merit" allowed by the terms of the existing contract. It is an across-the-board raise, which was given here without notice to the Union or opportunity to bargain on the matter, and Respondent has violated Section 8(a)(5) and (1) as well.

¹ The Regional Director's letter of 9 January 1985, Board's Order in Case 5-RC-874. Counsel for the Respondent asked for leave to make an offer of proof, choosing to do so by the Q and A method. This was granted, over the objection of counsel for the General Counsel, who argued that this method constituted a retrial of the validity of the collective-bargaining agreement of 15 November 1984. The General Counsel applied for leave to appeal to the Board, which was allowed, and her appeal was upheld. Respondent's offer of proof was denied and the evidence relating to the validity of the execution of the collective-bargaining agreement was excluded.

The complaint also alleges a violation of Section 8(a)(5) and (1) in that on or about 25 January 1985, contrary to section 8(22) of the collective-bargaining agreement, Respondent promulgated a policy forbidding access by union agents to its facility. The collective-bargaining agreement provides as follows.

An authorized representative of the union shall be permitted to visit the office of the company at all reasonable hours and after notifying a representative of the Company, designated by it for such purpose, will be permitted to visit the Company's shop during working hours to investigate any matter covered by this agreement, but it shall in no way interfere with the progress of the work.

Previously it was determined that the collective-bargaining agreement is currently binding on the parties, therefore any rule of the Company to the contrary is a violation of Section 8(a)(5) and (1).

V DISCUSSION AND CONCLUSION

The Respondent has raised the issue of the validity of the collective-bargaining agreement and its binding effect on the parties. The General Counsel correctly argues that, if valid, the collective-bargaining agreement between the parties becomes a "contract bar" to any decertification petition or an attack on the union majority. The Board in "General Counsel's Request For Special Permission To Appeal" ruled the contract valid and binding.²

The question of the validity of the collective-bargaining agreement is resolved by ruling of the Board.

The resolution by the Board of this issue requires that the action of Respondent be evaluated and interpreted in consideration of the collective-bargaining agreement in effect at the time.

The act of attempting to rescind the agreement, which the Board has ruled is valid, is, standing alone, a violation of Section 8(a)(1) and (5).

The validity of the agreement of 15 November 1984, characterized as a "settlement agreement" incorporated all unchanged provisions of the most recently expired collective-bargaining agreement, bore the uncontradicted signature of the executive manager and plant manager, and constituted full compliance with any demand for a

"written documentation." Thus, paragraph 311 of the complaint is unproven, and shall be dismissed.

Dealing directly with the employees on matters covered by a collective-bargaining agreement is a violation of Section 8(a)(5) and (1). Umlandt held a meeting with employees to discuss production at the plant. He told them about the pending increase in wages. Subsequently an increase in wages was granted "across-the-board" at 3 percent. Respondent's attempt to characterize this as a merit raise allowed by the collective-bargaining agreement was not compelling, and I find it was not a merit raise, but an unplanned raise, a matter about which the Union was entitled to notice and to an opportunity to negotiate. The direct dealing with the employees on this subject is a violation of Section 8(a)(5) and (1) of the Act.

The collective-bargaining agreement of 15 November 1984 provided, among other things, for "plant visitors." The plant visitors were contemplated to be union representatives, and the Company promulgation of contrary rules without union participation is a violation of Section 8(a)(5) and (1) of the Act.

THE REMEDY

Having found that the Respondent violated the Act in several ways, especially Section 8(a)(5) and (1), (a) withdrawing recognition of the Union as the exclusive collective-bargaining representative of its employees within the appropriate bargaining unit and thus refusing to bargain with the Union, (b) promising a wage increase to said employees, (c) granting a wage increase to said employees, and (d) prohibiting access to the employees in accord with the contract, the Respondent will be ordered to cease and desist from interfering with, restraining, or coercing its employees in any like or related manner with respect to their rights guaranteed to them by Section 7 of the Act. Respondent shall be further ordered to affirmatively recognize and, upon request, bargain collectively with the Union as the exclusive bargaining representative of the employees in the appropriate unit and, if an understanding is reached, to embody such understanding in a signed agreement and to post at its facility copies of the attached notice all pursuant to the order.

CONCLUSIONS OF LAW

1 Washington Stair and Iron Works, Inc is an employer engaged in commerce within the meaning of Section 2(2) and (6) of the Act.

2 International Association of Bridge, Structural and Ornamental Ironworkers, Shopmen's Local Union No. 486, AFL-CIO is a labor organization within the meaning of Section 2(5) of the Act.

3 The Respondent has withdrawn recognition of the Union as the exclusive representative of its employees in violation of the collective-bargaining agreement of 15 November 1984 and thus of Section 8(a)(5) and (1) of the Act.

4. The Respondent promised wage increases to its employees without notifying the Union, in violation of the

² General Counsel filed a request for special permission to appeal the administrative law judge's ruling permitting respondent to present, through an extended offer of proof its entire position regarding the validity of the collective-bargaining agreement of 15 November 1984. Respondent filed opposition to General Counsel's special appeal. Having duly considered the matter, and noting that Respondent's contentions regarding the validity of the collective-bargaining agreement and the need for a hearing on this issue have already been considered by the Board in a request for review in 5-RC-874, and in connection with Respondent's previous request for special permission to appeal the judge's quashing of Respondent's subpoena, the Board is of the opinion that all matters that Respondent seeks to present through its extended offer of proof have been or could have been presented earlier, and that the offer of proof in the format permitted by the administrative law judge will serve only to unnecessarily delay processing of the instant case. Accordingly, the administrative law judge is reversed and the judge is directed to exclude the evidence that Respondent seeks to present in the form of an extended offer of proof. By direction of the Board.

collective-bargaining agreement of 15 November 1984, and thus violated Section 8(a)(5) and (1) of the Act.

5. The Respondent granted an increase in wages to its employees without notice thereof to the Union, in violation of the collective-bargaining agreement of 15 November 1984, and thus violated Section 8(a)(5) and (1) of the Act.

6. The Respondent promulgated a "no access" rule, which had the effect "no access" to the plant by union collective-bargaining agreement of 15 November 1984, and thus violated Section 8(a)(5) and (1) of the Act.

[Recommended Order omitted from publication.]