

Triality Inc. d/b/a United Iron Works¹ and Rodney Gene Watson, Petitioner and Shopmen's Local 509 of the International Association of Bridge, Structural and Ornamental Iron Workers, AFL-CIO. Case 21-UD-269

July 29, 1988

**DECISION AND ORDER DISMISSING
PETITION**

**BY CHAIRMAN STEPHENS AND MEMBERS
BABSON AND CRACRAFT**

Pursuant to a Stipulation for Certification Upon Consent UD Election, an election by secret ballot was conducted on January 6, 1984. The tally of ballots established that a majority of the eligible voters were in favor of withdrawing the authority of the Union to require, under its collective-bargaining agreement with the Employer, that membership in the Union be a condition of employment. Thereafter, the Union filed an objection to conduct affecting the election, alleging that the election could not be conducted in a fair and uncoerced atmosphere owing to the activities of the Petitioner, a statutory supervisor, who circulated and campaigned on behalf of the petition.

¹ The name of the Employer appears as amended at the hearing

Subsequently, Hearing Officer Rowena Hodges issued a report and recommendations, in which she found that the Petitioner was a supervisor within the meaning of Section 2(11) of the Act, and recommended that the petition be dismissed on the ground that as a statutory supervisor, the Petitioner was not eligible to file the petition. The Employer filed exceptions to the hearing officer's report and recommendations,² and the Union filed an answering brief.

The Board, by a three-member panel, has reviewed the record in light of the exceptions and briefs and has adopted the hearing officer's findings and recommendations.

In *Rose Metal Products*, 289 NLRB 1153 (1988), the Board recently held that a statutory supervisor was ineligible to file a deauthorization petition. For the reasons set forth in *Rose Metal Products*, we find that the Petitioner, as a statutory supervisor, was ineligible to file the instant deauthorization petition. Accordingly, we shall dismiss the petition.

ORDER

The petition is dismissed.

² The Employer erroneously filed a request for review under Sec. 102.67(c)(1) of the Board's Rules and Regulations rather than filing exceptions under Sec. 102.69 as properly directed in the hearing officer's report. We have treated the request for review as exceptions.