

NOT INCLUDED IN
BOUND VOLUMES

PBH
Madison, TN

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

PACCAR, INC. d/b/a
PETERBILT MOTORS COMPANY

and

Case 26-CA-23225

INTERNATIONAL UNION, UNITED
AUTOMOBILE, AEROSPACE and
AGRICULTURAL IMPLEMENT
WORKERS OF AMERICA,
UAW and UAW, LOCAL 1832

ORDER DENYING MOTION FOR RECONSIDERATION

On July 15, 2011, the National Labor Relations Board, by a three-member panel, issued a Decision and Order in this proceeding¹ finding that the Respondent violated Section 8(a)(5) and (1) of the Act by failing and refusing, since July 16, 2008, to furnish UAW Local 1832 (the Union) with requested wage and benefit information. The Board further found that this violation did not render unlawful, beginning that same date, the Respondent's ongoing lawful lockout of unit employees. The Board found that there was an insufficient link between the Respondent's failure to supply the requested information and the continuation of the lockout.

On August 24, 2011, the Union filed a motion for reconsideration, and the Respondent filed a response in opposition to the motion.

¹ 357 NLRB No. 13.

Having duly considered the matter, the Board finds that the Union's motion fails to present "extraordinary circumstances" warranting reconsideration under Section 102.48(d)(1) of the Board's Rules and Regulations.²

The Union points to testimony from Timothy Bressler, its lead negotiator, and employee Michael Brown that Bressler told the entire Union membership about the outstanding information request at a meeting on June 22, 2008, a day before the lockout began.³ The Union additionally cites testimony from Brown that, at bargaining sessions on August 19 and 20, Bressler informed the Respondent that the requested information "would make a difference in how the Union considered the Respondent's proposals and how it made counterproposals." None of this testimony warrants reconsideration of the Board's decision.

First, we observe that the judge did not credit any of the above testimony. In fact, he did not discuss it. Contrary to the Union's contention, the judge's actual credibility resolutions cannot be read as a wholesale crediting or discrediting of the entirety of any witness's testimony. Instead, his credibility determinations were narrowly tied to specific testimony about specific incidents.

Nevertheless, even were we to accept the testimony cited by the Union, that testimony does not establish any material error in the Board's decision. At best, the Union has shown that it made a few passing references to the outstanding information request as being something that would "make a difference" with respect to the Respondent's wage and benefit proposals. Viewing the record as a whole, as we must,

² Chairman Pearce did not participate in the Board's Decision and Order, but he agrees that the Union has not shown extraordinary circumstances warranting reconsideration of that decision.

³ The complaint did not allege that the lockout was unlawful from its inception.

the fact remains however that the parties were far apart on many economic and non-economic issues, including not only wages and benefits, but also a management rights clause, health and safety issues, and the designation of (and superseniority for) key operators. The outstanding information did not form the basis of the Respondent's proposals on any of those other matters and was not central to resolving the parties' differences. Accordingly, we conclude that the Union has not established extraordinary circumstances warranting reconsideration of the Board's finding that the Respondent's failure to provide the requested wage and benefit information did not *materially* affect the progress of bargaining.

IT IS ORDERED, therefore, that the motion for reconsideration is denied.

Dated, Washington, D.C. December 20, 2011.

Mark Gaston Pearce, Chairman

Craig Becker, Member

Brian E. Hayes, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD