

In the Matter of COLORADO INSULATING COMPANY *and* INTERNATIONAL
UNION OF OPERATING ENGINEERS, LOCAL #1, AFL

Case No. 30-RC-132.—Decided May 3, 1940

DECISION

AND

DIRECTION OF ELECTION

Upon a petition duly filed, a hearing was held before Clyde F. Waers, hearing officer of the National Labor Relations Board. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Pursuant to the provisions of Section 3 (b) of the National Labor Relations Act, the Board has delegated its powers in connection with this case to a three-member panel [Members Reynolds, Murdock, and Gray].

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the National Labor Relations Act.

2. The labor organizations named below claim to represent certain employees of the Employer.¹

3. The Intervenor contends that a contract having its anniversary date on February 1, 1948, and automatically renewable annually thereafter, in the absence of 30 days' notice in writing, is a bar to this proceeding. However, as the petition herein was filed within a reasonable period in advance of the time set in the automatic renewal clause of the contract, we find, that the contract is not a bar to the present determination of representatives.²

We find that a question affecting commerce exists concerning the representation of employees of the Employer, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

4. The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act:

¹ Local 720, International Hod Carriers, Building and Common Laborers, AFL, herein called the Intervenor, was allowed to intervene in these proceedings on the basis of an alleged contractual interest.

² *Matter of Pacific Tankers, Inc.*, 81 N. L. R. B. 325.

83 N. L. R. B., No. 45.

All production and maintenance employees of the Employer, excluding engineers,³ office and clerical employees, guards, professional employees, and supervisors as defined in the Act.

DIRECTION OF ELECTION ⁴

As part of the investigation to ascertain representatives for the purposes of collective bargaining with the Employer, an election by secret ballot shall be conducted at such time as the Regional Director finds that the Employer's operations have resumed, under the direction and supervision of the Regional Director for the Seventeenth Region, and subject to Sections 203.61 and 203.62 of National Labor Relations Board Rules and Regulations—Series 5, as amended, among the employees in the unit found appropriate in paragraph numbered 4, above, who were employed during the pay-roll period immediately preceding the date of the election, including employees who did not work during said pay-roll period because they were ill or on vacation or temporarily laid off, but excluding those employees who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the election, and also excluding employees on strike who are not entitled to reinstatement, to determine whether they desire to be represented, for purposes of collective bargaining, by International Union of Operating Engineers, Local #1, AFL, or by Local 720, International Hod Carriers, Building and Common Laborers, AFL, or by neither.

³ As the record clearly shows that these employees are supervisors who responsibly direct, and can effectively recommend the discharge or discipline of, other employees in their shift, we shall exclude them from the unit. *Matter of Baking Industry Council*, 80 N. L. R. B 1590.

⁴ Either participant in the election directed herein may, upon its prompt request to, and approval thereof by, the Regional Director, have its name removed from the ballot.