

In the Matter of MUTUAL-SUNSET LAMP MANUFACTURING COMPANY
and INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL
No. 3

Cases Nos. C-208 and R-243.—Decided August 28, 1937

Electrical Equipment Manufacturing Industry—Settlement: agreement to bargain collectively and to post notices—Order: entered upon agreement—Petition for Investigation and Certification of Representatives: dismissed upon finding that agreement disposes of question concerning representation.

Mr. Lester Levin for the Board.

Mr. Murray E. Harston, of New York City, for the Company.

Mr. Nat Goldberg, of New York City, for the Union.

Mr. Frederick P. Mett, of counsel to the Board.

DECISION

STATEMENT OF THE CASE

On March 24, 1937, the International Brotherhood of Electrical Workers, Local No. 3, herein called the Union, filed a charge with the Regional Director for the Second Region (New York City), alleging that the Mutual-Sunset Lamp Manufacturing Company, Brooklyn, New York, herein called the Company, had committed certain unfair labor practices in violation of the National Labor Relations Act, 49 Stat. 449, herein called the Act. Thereafter, on June 25 and on July 8, 1937, the Union similarly filed amended charges alleging further violations of the Act.

On May 11, 1937, the Union filed with the Regional Director for the Second Region a petition alleging that a question affecting commerce had arisen concerning the representation of the employees of the Company and requesting an investigation and certification of representatives pursuant to Section 9 (c) of the Act.¹ On June 14, 1937, the National Labor Relations Board, herein called the Board, acting pursuant to Article III, Section 3 of National Labor Relations Board Rules and Regulations—Series 1, as amended, authorized the said Regional Director to conduct an investigation and to provide for an appropriate hearing in connection therewith.

¹ On July 8, 1937, the Union filed an amended petition with the Regional Director. The amended petition clarified in numerous particulars the petition filed on May 11, 1937.

On July 9, 1937, the Board, by the said Regional Director, issued its complaint, based on the original and amended charges filed by the Union, against the Company, alleging that the Company had engaged in and was engaging in unfair labor practices affecting commerce, within the meaning of Section 8, subdivisions (1), (3), and (5), and Section 2, subdivisions (6) and (7) of the Act.² With respect to the unfair labor practices the complaint in substance alleged that the Company had discharged Joseph Ancerino, John T. Hart, Arthur Giasi, Florence Rogers and John Scalia; that the Company after their discharge reinstated John T. Hart, Arthur Giasi and Florence Rogers, but refused to recompense them for the time lost during the period of their discharge; that the Company had at all times refused to reinstate Joseph Ancerino and John Scalia; that the Company had discharged the above-named employees, had refused to reinstate two of them and had refused to recompense three of them upon reinstatement, for the reason that they and each of them applied for membership in and assisted the Union; that the Company urged, persuaded, and warned its employees to refrain from becoming and remaining members of the Union, and threatened them with discharge and other reprisals if they did not heed its warnings; that the Company kept under surveillance the meetings and meeting places of the members of the Union who were its employees; and that the Company refused to bargain collectively with the Union which represented a majority of the Company's employees in an appropriate unit for such purposes. The Company filed no formal answer to the Board's complaint.

Pursuant to the notice of a hearing on the complaint and pursuant to a similar notice of a hearing to be held on the Union's petition, duly served on the Company and the Union, a hearing on both matters was held before James C. Paradise, duly designated as Trial Examiner by the Board, at New York City, on July 19, 1937.³ The Company and the Union were represented at and participated in the hearing. Full opportunity to be heard was afforded all parties. At the outset, counsel for the Company and the Union having expressed a desire to enter into a discussion for the purpose of settlement and disposition of the cause on the complaint and the petition, without a lengthy hearing, the Trial Examiner granted the request of counsel for the Board for a recess during which such discussion could be had and a settlement arranged. Upon resumption of the hearing counsel for the Company admitted the truth of the allegations of the Board's

² The complaint and an accompanying notice of a hearing to be held thereon on July 19, 1937, were thereafter duly served on the Company and the Union.

³ Both notices were identical as to the time and place of hearing. At the hearing counsel for the Company waived all objection to the consolidation for the purposes of hearing of the cause on the complaint and the cause on the petition. The single hearing on July 19, 1937, thereupon concerned itself with both causes.

complaint as to the business of the Company and admitted the jurisdiction of the Board in both causes. Thereupon counsel for the Board stated that a settlement had been agreed upon by all of the parties for the purpose of disposing of the cause on the complaint and on the petition, and read for the record the following agreement reached between the parties:

The Company agrees that . . . (its) employees . . . at its Brooklyn plant, excluding those engaged in clerical and supervisory duties, constitute (an) appropriate . . . (unit) for the purpose of collective bargaining (with) in the meaning of the Act.

The Company agrees that the Union represents a majority of all of the employees in that . . . (unit), and that the Union is the duly designated bargaining agent for those employees.

The Company agrees that it, through its duly designated agent, will enter into negotiations with the Union for collective bargaining on behalf of the employees.

The . . . (Company) further agrees to reinstate Joseph Scalia mentioned in paragraphs 3 and 6 . . . (of) the complaint, to his former position with the . . . (Company).

The Company further agrees that it will post a notice in the plant and keep the same posted for a period of approximately 30 days, [reading]:

"The employees of this Company have the right to self-organization, to form, join or assist labor organizations, to bargain collectively with representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection.

"No employee will be discriminated against in regard to the hire, or tenure of employment or any term or condition of employment for the purpose of encouraging or discouraging membership in any labor organization."⁴

The Company agrees that Florence Rogers will not be discriminated against as far as the type of work which she is given on the piece rate, and that she will be given the opportunity to earn the normal salary of an employee in the department in which she is so engaged.

The Union . . . (agrees), in view of the above concessions by the . . . (Company), to withdraw its charges concerning John T. Hart, Arthur Giasi, Florence Rogers, and Joseph Scalia, men-

⁴ Following the remarks by counsel for the Board, counsel for the Company agreed that "A sufficient number of notices are to be posted in conspicuous places in the . . . (Company's) Brooklyn plant."

tioned as the individual employees involved in this proceeding throughout the complaint.⁵

At the close of the hearing all of the parties agreed that the Board, if it desired, might issue an order based upon the agreement reached between the parties. The proceedings on the complaint having been duly transferred to the Board for disposition by it, such order will be made hereinafter. Furthermore, the agreement having effectively disposed of the issues raised by the petition and amended petition of the Union, such petitions will be dismissed.

ORDER

On the basis of the above agreement, and pursuant to Section 10, subdivision (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the Mutual-Sunset Lamp Manufacturing Company, its officers, agents, successors and assigns, shall take the following affirmative action, which the Board finds will effectuate the policies of the Act:

1. Upon request bargain collectively with the International Brotherhood of Electrical Workers, Local No. 3, as the exclusive representative of all its employees at its Brooklyn plant, except supervisory and clerical employees, in respect to rates of pay, wages, hours of employment and other conditions of employment.

2. Post for a period of thirty (30) days, in conspicuous places in its Brooklyn plant, a sufficient number of notices to its employees, signed by it and reading as follows:

a. The employees of this Company have the right to self-organization, to form, join or assist labor organizations, to bargain collectively with representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection;

b. No employee will be discriminated against in regard to the hire, or tenure of employment or any term or condition of employment for the purpose of encouraging or discouraging membership in any labor organization.

DISMISSAL OF PETITION AND AMENDED PETITION

The Mutual-Sunset Lamp Manufacturing Company having agreed to bargain collectively concerning rates of pay, wages, hours, and other working conditions, with the International Brotherhood

⁵ Prior to the above statement, counsel for the Board remarked that the Union was also withdrawing its charge as to Joseph Ancerino, the only other employee named in the complaint, for the reason that he had disappeared and his whereabouts were unknown.

of Electrical Workers, as the exclusive representative of all of its employees at its Brooklyn plant, except supervisory and clerical employees, and it appearing by virtue of such agreement that a question affecting commerce concerning the representation of such employees no longer exists, the National Labor Board, pursuant to Article III, Section 8 of National Labor Relations Board Rules and Regulations—Series 1, as amended, directs that the petition and amended petition, respectively, filed by the International Brotherhood of Electrical Workers, Local No. 3, with the Regional Director for the Second Region, on May 11, 1937, and July 8, 1937, be, and they hereby are, dismissed.

MR. EDWIN S. SMITH took no part in the consideration of the above Decision and Order.