

In the Matter of THE HELLER BROTHERS COMPANY OF NEWCOMERSTOWN *and* INTERNATIONAL BROTHERHOOD OF BLACKSMITHS, DROP FORGERS, AND HELPERS

*Cases Nos. C-370 and R-569*

*File, Rasp, and Small Tool Manufacturing Industry—Check-Off*: motion requesting annulment of that part of Board's order requiring reimbursement of employees for amounts deducted from their wages as dues for company-dominated union, or for a rehearing on that issue, denied—*Order*: denying motion.

SUPPLEMENTAL DECISION

AND

ORDER

*July 14, 1938*

On June 4, 1938, the National Labor Relations Board, herein called the Board, issued its Decision, Order, and Certification of Representatives in the above-entitled proceeding,<sup>1</sup> in which the Board ordered The Heller Brothers Company of Newcomerstown, Ohio, herein called the respondent, to cease and desist from certain unfair labor practices and to take certain affirmative action including, among other things, the reimbursement of the employees who were members of the File and Tool Workers Union for the dues it had deducted from their wages.

On June 25, 1938, the respondent, reserving its objections to all other portions of the Board's order, filed with the Board a motion in which it demanded the annulment of the above-described portion of the order requiring the reimbursement of dues checked off or in the alternative a re-hearing on that issue on the ground that the issue had not been tried at the hearing. On July 5, 1938, the International Brotherhood of Blacksmiths, Drop Forgers, and Helpers filed with the Board an answer in opposition to the respondent's motion.

The Board has considered the respondent's motion and finds it to be without merit. The respondent's check-off of dues for the File and Tool Workers Union was specifically in issue under the pleadings,

<sup>1</sup> 7 N. L. R. B. 646.

S N. L. R. B., No 34.

evidence was offered by and received from the respondent on the issue at the hearing, and the Trial Examiner in his Intermediate Report made a recommendation on the issue. Thereafter, the respondent excepted to the Trial Examiner's recommendation and was afforded oral argument before the Board and filed a brief in support of its contentions prior to the issuance of the order. Moreover, there is no claim of newly discovered evidence bearing upon the issue which was either unknown or unavailable to the respondent at the time of the hearing and the respondent's objection relates in essence to the propriety of the remedy afforded rather than the merits of the issue.

IT IS HEREBY ORDERED that the respondent's motion for the annulment of Section 2 (b) of the Board's order of June 4, 1938, or in the alternative for a re-hearing on the issue be, and it hereby is, denied.