

IN the Matter of PARAGON RUBBER CO.—AMERICAN CHARACTER DOLL
COMPANY *and* TOY & NOVELTY WORKERS ORGANIZING COMMITTEE OF
THE C. I. O.

Case No. R-571

SECOND AMENDMENT TO SECOND DIRECTION OF
ELECTION

July 29, 1938

On March 17, 1938, the National Labor Relations Board, herein called the Board, issued a Decision and Direction of Election in the above-entitled case.¹ The Direction of Election provided that an election by secret ballot be held within fifteen (15) days among all the production and maintenance employees of the Paragon Rubber Corporation and American Character Doll Co., Inc., during the pay-roll period ending October 16, 1937, excepting certain employees as set forth therein, to determine whether or not they desired to be represented by United Toy and Novelty Workers Local Industrial Union No. 643 for the purposes of collective bargaining.

Pursuant to this Direction, an election was held on March 29, 1938. On June 16, 1938, the Board issued a Supplemental Decision and Second Direction of Election² declaring the election null and void and ordering that a new election be held within fifteen (15) days. On June 30, 1938, an Amendment to Supplemental Decision and Second Direction of Election³ was issued postponing the election indefinitely pending an investigation and a determination by the Board as to whether or not a free choice of representatives is possible at this time among the employees of the companies.

The Regional Director for the First Region having at the request of the Board investigated this matter and having informed the Board that a free choice of representatives is now possible, the Board hereby amends the Second Direction of Election, as amended, by striking therefrom the words "at such time as the Board in the future may direct" and substituting therefor the words "within twenty (20) days from July 29, 1938."

¹ 6 N. L. R. B. 23.

² 7 N. L. R. B. 965.

³ 7 N. L. R. B. 967.

8 N. L. R. B., No. 74.

[SAME TITLE]

SUPPLEMENTAL DECISION

AND

ORDER

September 28, 1938

On March 17, 1938, the National Labor Relations Board, herein called the Board, issued a Decision and Direction of Election in the above-entitled case. The Direction of Election provided that an election by secret ballot be held within fifteen (15) days among all the production and maintenance employees of the Paragon Rubber Corporation and American Character Doll Co., Inc., during the pay-roll period ending October 16, 1937, excepting certain employees as set forth therein, to determine whether or not they desired to be represented by United Toy and Novelty Workers Local Industrial Union No. 643 for the purposes of collective bargaining.

Pursuant to this Direction, an election was held on March 29, 1938. On June 16, 1938, the Board issued a Supplemental Decision and Second Direction of Election declaring the election null and void for reasons therein stated and directing that a new election be held within fifteen (15) days among all the production and maintenance employees of Paragon Rubber Corporation and American Character Doll Co., Inc., during the pay-roll period ending October 16, 1937, excluding supervisory employees, executive employees, clerical employees, salesmen, foremen and foreladies, assistant foremen and foreladies, truck drivers, engineers, firemen, machine shop employees, and porters, and exclusive of those who have since quit or been discharged for cause between that period and the date of election, to determine whether or not they desire to be represented by United Toy and Novelty Workers Local Industrial Union No. 643 for the purposes of collective bargaining.

On June 30, 1938, an Amendment to Supplemental Decision and Second Direction of Election¹ was issued postponing the election indefinitely pending an investigation and a determination by the Board as to whether or not a free choice of representatives was possible at the time among the employees of the companies.

On July 29, 1938, the Board, having been informed by the Regional Director for the First Region that an investigation had been made and that a free choice of representatives was possible among the employees of the companies, issued a Second Amendment to Second

¹ 7 N. L. R. B. 965.

Direction of Election directing that an election be held within twenty (20) days from July 29, 1938.

Pursuant to this direction, an election by secret ballot was conducted on August 17, 1938, under the direction and supervision of the Regional Director for the First Region (Boston, Massachusetts). Full opportunity to participate in the conduct of the ballot and to make challenges was accorded all parties. On August 24, 1938, the said Regional Director, acting pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 1, as amended, issued and duly served upon the parties his Intermediate Report on the ballot.

As to the balloting and its results, the Regional Director reported the following:

Number of employees eligible to vote-----	160
Total number of ballots cast-----	115
Total number of blank ballots-----	0
Total number of void ballots-----	1
Total number of ballots cast for United Toy and Novelty Workers Local Industrial Union No. 643, C. I. O-----	39
Total number of ballots cast against United Toy and Novelty Workers Local Industrial Union No. 643, C. I. O-----	56
Total number of challenged ballots-----	19
(ruled ineligible and not opened)	

On August 29, 1938, the Union filed with the Regional Director and with the Board its objections to the Intermediate Report and requested that the election be set aside on the grounds inter alia (1) that the Regional Director had erred in sustaining the 19 challenges; (2) that the Union had been prejudiced by the manner in which the representative of the Board who conducted the election had questioned those employees challenged by the companies; (3) that the companies had interfered with a free choice of representatives by inducing a former union president to campaign against the Union and by discriminating against union members in rehiring workers after the dull season.

During the usual summer seasonal lay-off the companies had sent communications regarding reemployment to 17 of the 19 challenged voters who had been included in the seasonal lay-off. These 17 had failed to answer such communications from the companies and/or stated upon presenting themselves at the polling place that they did not wish to go back to work. The two other persons challenged were not on the original list of those employed during the pay-roll period ending October 16, 1937. The Regional Director sustained these 19 challenges, and his ruling is hereby affirmed. The Union's objection to the conduct of the Regional Director's agent who conducted the election is predicated upon the fact that he asked the 19

voters who were challenged, "Would you return to work when and if called?" We see no impropriety in this question. The Regional Director's agent was merely using a reasonable method to ascertain whether the challenged voters were among those eligible to vote under the terms of the Board's Direction or were to be regarded as ineligible as having quit. With respect to the alleged company interference, the Union made no sufficient showing in support of its assertion to raise a material or substantial issue concerning the conduct of the ballot. We find the objections to be without merit, and the Union's request that the election be set aside is hereby denied.

The results of the election show that no collective bargaining representative has been selected by a majority of the employees in the appropriate unit. The petition for investigation and certification of representatives of employees of the companies will therefore be dismissed.

ORDER

By virtue of Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, and pursuant to Article III, Sections 8 and 9, of National Labor Relations Board Rules and Regulations—Series 1, as amended.

IT IS HEREBY ORDERED that the petition for investigation and certification of representatives of employees of Paragon Rubber Corporation and American Character Doll Co., Inc., Easthampton, Massachusetts, filed by United Toy and Novelty Workers Local Industrial Union No. 643, be, and it hereby is, dismissed.

MR. DONALD WAKEFIELD SMITH took no part in the consideration of the above Supplemental Decision and Order.

8 N. L. R. B., No. 74a.