

OFFICE OF THE GENERAL COUNSEL
Division of Operations

MEMORANDUM 71-44

August 24, 1971

TO: All Regional Directors, Officers-in-Charge,
and Resident Officers

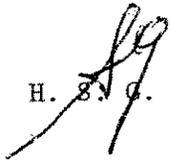
FROM: H. Stephan Gordon, Associate General Counsel

SUBJECT: Collyer Insulated Wire, 192 NLRB No. 150
Board Arbitration Deferral Policy

Your attention is directed to the Board's recent decision in the above case, a major statement of the Board on arbitration deferral policy. The Board there, although retaining jurisdiction for a limited purpose, dismissed a Section 8(a)(5) unilateral change allegation based on the fact that the parties' collective-bargaining agreement contained grievance and arbitration machinery for the resolution of the underlying dispute.^{1/} In this regard, the Board noted that the entire dispute arose from the contract between the parties and from the parties' relationship under that contract. The Board further found that the parties intended to make the contractual grievance and arbitration machinery the exclusive forum for the resolution of contractual disputes. The Board also observed that the parties had a long and productive collective bargaining relationship, that there was no claim of Employer enmity to its employees' exercise of protected rights, and that the Employer indicated a willingness to submit the dispute to arbitration.

In connection with an evaluation of the impact of Collyer on pending cases and a consideration of Regional procedures to be followed in such cases, please submit promptly to your Assistant General Counsel a list of the names and status of all Section 8(a)(5) cases, pending in your Region at any stage prior to the issuance of a Trial Examiners Decision, in which grievance and arbitration machinery is available for the resolution of the underlying dispute.

Any questions concerning this memorandum should be directed to your Assistant General Counsel.


H. S. G.

Distribution
Washington - Special
Regional - All Professional

MEMORANDUM 71-44

^{1/} The Board retained jurisdiction in the case for the limited purpose of entertaining a motion for further consideration upon a showing that: (a) the dispute had not, with reasonable promptness, been resolved in the grievance procedure or submitted to arbitration; or (b) the grievance and arbitration procedures had not been fair or regular or had reached a result repugnant to the Act.