

Construction and General Laborers Local Union No. 146, Laborers International Union of North America, AFL-CIO; Connecticut Laborers District Council, Laborers International Union of North America, AFL-CIO and Modern Acoustics, Inc. and Local 210, United Brotherhood of Carpenters and Joiners of America, AFL-CIO. Case 39-CD-13

26 August 1983

DETERMINATION OF DISPUTE

BY CHAIRMAN DOTSON AND MEMBERS
JENKINS AND HUNTER

This is a proceeding under Section 10(k) of the National Labor Relations Act, as amended, following charges¹ filed by Modern Acoustics, Inc., herein called the Employer, alleging that Respondent Unions, Construction and General Laborers Local Union No. 146, Laborers International Union of North America, AFL-CIO, herein called Laborers Local 146, and Connecticut Laborers District Council, Laborers International Union of North America, AFL-CIO, herein called Laborers District Council, had each violated Section 8(b)(4)(D) of the Act by engaging in certain proscribed activity, set out below, with an object of requiring the Employer to assign the work in dispute to employees represented by said Respondents rather than to the Employer's own employees, who are represented by Local 210, United Brotherhood of Carpenters and Joiners of America, AFL-CIO, herein called Carpenters Local 210.

Pursuant to notice, a hearing was held before Hearing Officer Blanca E. Torres, on 14 January and 26 January 1983. All parties appearing at the hearing were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to adduce evidence bearing on the issues.² Thereafter, briefs were filed on behalf of all parties to the proceeding except Laborers Local 146 and Laborers District Council.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has reviewed the rulings of the Hearing Officer and finds that they are free from prejudicial error. The rulings are hereby affirmed.

Upon the entire record in this proceeding, the Board makes the following findings:

¹ The Employer filed a charge, and a first amended charge, on 19 November and 23 November 1982, respectively.

² At the hearing, the Hearing Officer granted a motion to allow Robert Dry Wall Company, Inc., herein called Robert Dry Wall, to intervene and participate in the hearing.

I. JURISDICTION

The Employer, a Connecticut corporation with its principal place of business in Norwalk, Connecticut, is engaged in interior carpentry in the building and construction industry. During the past 12 months, the Employer purchased and received goods and materials valued in excess of \$50,000, directly from suppliers located outside the State of Connecticut. The parties stipulated, and we find, that the Employer is engaged in commerce within the meaning of Section 2(6) and (7) of the Act, and that it will effectuate the policies of the Act to assert jurisdiction herein.

Robert Dry Wall, a Connecticut corporation with its principal place of business at Manchester, Connecticut, is engaged in business as a carpentry contractor in the building and construction industry. During the past 12 months, Robert Dry Wall purchased and received goods and materials valued in excess of \$50,000 directly from suppliers located outside the State of Connecticut. The parties stipulated, and we find, that Robert Dry Wall is engaged in commerce within the meaning of Section 2(6) and (7) of the Act, and that it will effectuate the policies of the Act to assert jurisdiction herein.

II. THE LABOR ORGANIZATIONS INVOLVED

The parties stipulated, and we find, that Laborers Local 146 and Carpenters Local 210 are labor organizations within the meaning of Section 2(5) of the Act.

The record reflects that the Employer and Carpenters Local 210 declined to stipulate that Laborers District Council is a labor organization within the meaning of the Act. The parties did, however, enter into a factual stipulation that Laborers District Council is the organization responsible for negotiating and administering collective-bargaining agreements on behalf of Laborers local unions throughout the State of Connecticut. In addition, Charles LeConche, field representative for the Laborers District Council, testified that Laborers District Council exists, in part, for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, and conditions of work. Although Laborers District Council is itself made up of delegates from the constituent locals, some of these delegates are employee members of their respective locals. Finally, LeConche testified that Laborers District Council acts as an agent for its constituent locals in matters of work, or trade, jurisdiction. Based upon all of the above, we find that Laborers District Council

is a labor organization within the meaning of Section 2(5) of the Act.³

Finally, based on the assertion of Field Representative LeConche that the Laborers District Council acts as an agent for its constituent locals in matters of work or trade jurisdiction, and because the record reflects that, at all material times herein, neither the Laborers District Council nor Laborers Local 146 acted in a manner inconsistent with LeConche's assertion, we find that, during the period of time in which the incidents related below occurred, the Laborers District Council acted as an agent for Laborers Local 146. Accordingly, and in light of the clear language of Section 8(b)(4)(D) as it relates to "a labor organization or its agents," we find that Laborers District Council is a proper party to this proceeding, as a labor organization, and as an agent of Laborers Local 146. See, generally, *Longshoremen ILA Locals 799, 800, 805 and 1066 (Coldwater Seafood Corp.)*, 237 NLRB 538, 539 (1978), citing at fn. 3, *Carpenters Local 895 (George A. Fuller Co.)*, 186 NLRB 152 (1970).⁴

III. THE DISPUTE

A. Background and Facts of the Dispute

The record reflects that the Employer herein is installing acoustical ceilings in the core areas of the Prudential Plaza jobsite, located on the common border of Darien and Norwalk, Connecticut. The general contractor on the job is Turner Construction Company, herein called Turner, who subcontracted the general interior carpentry work to Robert Dry Wall, the Intervenor herein. Robert Dry Wall, in turn, subcontracted the installation of the core area acoustical ceilings to the Employer.

At all times material herein, the Employer has employed employees who are represented by Carpenters Local 210; has entered into a collective-bargaining agreement with that Union; and has assigned the work in dispute to its employees represented by Carpenters Local 210. The Employer does not employ any employees who are represented by either Laborers Local 146 or Laborers District Council. The record reflects that Robert Dry Wall employs Carpenter-represented employees and maintains a collective-bargaining agreement with that union; the record does not indicate the

local union, if any, with which Robert Dry Wall maintains a bargaining relationship. The evidence does show that Robert Dry Wall was, at one time, signatory to a collective-bargaining agreement with Laborers District Council on behalf of its constituent locals, but that Robert Dry Wall is now engaged in a dispute with the Laborers District Council concerning whether a bargaining relationship currently exists. Finally, the record reflects that Turner, which employs employees represented by Respondents, also maintains a collective-bargaining agreement with those Unions, and utilizes Respondents-represented employees at the Prudential Plaza jobsite.

B. The Work in Dispute

The notice of hearing describes the work in dispute as "[t]he unloading and handling of acoustical ceiling tiles necessary for Modern Acoustics, Inc. to install acoustical ceilings" All parties to this proceeding, with the exception of Laborers Local 146 and the Laborers District Council, contend that the scope of the work in dispute should be broadened to include the phrase "and other materials," in addition to "acoustical ceiling tiles." Laborers Local 146 and the Laborers District Council object to the broadening of the scope of the work in dispute based on their refusal to stipulate to the existence of a dispute, as well as on their contention that the proposed amendment was raised, for the first time, at the hearing. We note, in this regard, that Respondents' objections to the proposed broadened description of the work in dispute do not relate to the nature of the work itself.

Contrary to Laborers Local 146 and the Laborers District Council, we agree that the description of the work in dispute should be broadened as proposed. Thus, the record reflects that the installation of acoustical tile ceilings requires metal runners, as well as screws and other hardware that join the ceiling pieces together. In addition, as shall be seen, *infra*, the demand for the work made by Laborers Local 146 and the Laborers District Council is broad enough to encompass the expanded description of the work in dispute. Finally, and contrary to Respondents' contentions, the record is clear that this matter was raised at the start of the hearing, and was fully litigated.

Accordingly, based on the above and on the record as a whole, we find that the work in dispute is:

The unloading and handling of acoustical ceiling tiles and other materials necessary for Modern Acoustics, Inc. to install acoustical

³ Sec. 2(5) states: "The term 'labor organization' means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work."

⁴ In view of the Laborers District Council's involvement in the incidents related below, as well as the Employer's having alleged in both the charge and first amended charge that Laborers District Council violated Sec. 8(b)(4)(D) of the Act, it is not clear to us why the Employer contested the labor organization status of that body.

ceilings at the Prudential Plaza project, Route 1, Darien/Norwalk, Connecticut.

C. Contentions of the Parties

Laborers Local 146 and Laborers District Council have submitted a motion to quash the notice of hearing claiming that they have no dispute *per se* with the Employer, and that a pending arbitration will resolve the issues under consideration herein.

Carpenters Local 210 contends that the work in dispute should be assigned to individuals represented by it, based upon the Employer's preference, area practice, efficiency and economics, as well as on its collective-bargaining agreement with the Employer.

The Employer, who has assigned the work in dispute to employees represented by Carpenters Local 210, contends that the assignment should stand, based on its own preference, area practice, considerations of economy and efficiency, the skills possessed by its Carpenters-represented employees, its collective-bargaining agreement with Carpenters Local 210, and a prior Board Determination.⁵ Robert Dry Wall joins with the Employer and similarly contends that the work in dispute should be assigned to the Employer's employees represented by Carpenters Local 210.

D. Applicability of the Statute

Before the Board may proceed with a determination of the dispute pursuant to Section 10(k) of the Act, it must be satisfied that there is reasonable cause to believe that Section 8(b)(4)(D) has been violated.

The record reflects that on 15 September 1982⁶ a meeting was held at the Prudential Plaza jobsite, attended by Gavin Hadden, Turner Construction's project engineer, and Dennis Newman, Turner's superintendent; Larry Roberts, representing the Intervenor, Robert Dry Wall; Fred Wilmot, the Employer's president; John Cunningham, Richard Warga, and George Jepsen, all representing Carpenters Local 210; and Mark Soycher, the Associated General Contractors' representative. Also present were Charles LeConche, field representative for the Laborers District Council, and Roy Varbero. Although Varbero was identified as being "of the Laborers," his specific affiliation was not disclosed.

During this meeting, the discussion turned to the question of which employees would unload the Employer's acoustical material, the Carpenters

Local 210 representatives pointing out that their collective-bargaining agreement with the Employer favored assignment of the work to employees represented by them. LeConche and Varbero responded that Laborers-represented employees were to perform that work, and that Turner had been so advised; that if the work were not assigned to them they would picket the job, they would stop the job; all roadwork on the project would stop, no deliveries would be made to the jobsite; that they would have picket lines 2 miles long, and that the pickets would be replaced as fast as the police could arrest them. The record also reflects that LeConche and Varbero stated that if the work were not assigned to employees represented by Laborers that other jobs that Turner had in Connecticut would be affected. We note that, although the record does not specifically indicate which portions of the above statements were articulated by LeConche and which by Varbero, the record is clear that portions were spoken by each, and that each concurred in the comments of the other.

Approximately 1 month subsequent to the above meeting, an incident involving Respondents and the Employer occurred at the Prudential jobsite. Thus, on 18 November, a Boyle Brothers truck arrived at the Prudential Plaza jobsite carrying the acoustical materials required by the Employer in order to perform its work pursuant to its subcontract with Robert Dry Wall. The Employer had assigned the unloading of the truck contents to its employees represented by Carpenters Local 210. When these employees began to unload the acoustical materials, Roy Varbero, who was present on the site along with a Laborers Local 146 steward identified in the record as "Paul," directed other individuals represented by the Laborers to erect a barricade. The barricade was quickly set up, with Varbero, Paul, and other Laborer-represented individuals taking their places behind the barricade, thereby preventing the unloading of the Employer's materials. After approximately 25 minutes, the materials in question were loaded back onto the truck, and the barricade was thereafter dismantled. The materials were then delivered to the Employer's warehouse, and subsequently redelivered to the site by the Employer's own trucks.

Based on the foregoing, and on the record as a whole, we find that an object of the above-described threats and barricading was to force or require the Employer to assign the disputed work to employees represented by Laborers Local 146 and Laborers District Council. We further find that such threats may be attributed to the Laborers District Council, and to Laborers Local 146, as individual Respondents. Thus, LeConche, field repre-

⁵ *Construction and General Laborers Local 449 (Modern Acoustics, Inc.)*, 260 NLRB 883 (1982), hereinafter referred to as *Construction and General Laborers Local Union No. 449*.

⁶ Unless otherwise indicated, all dates herein fall within 1982.

sentative for the Laborers District Council, was clearly involved in threatening to picket the Prudential Plaza jobsite as well as threatening future job actions against Turner on a statewide basis if Respondents' demand for the work in dispute were not honored. Such threats are binding on Laborers Local 146 inasmuch as they were made by Le-Conche in his admitted capacity as agent for Laborers Local 146 in a matter involving work, or trade, jurisdiction; and there is no evidence that any representative of Laborers Local 146 disavowed such threats. To the contrary, as fully described above, approximately 1 month thereafter, a steward from that Local, along with other Laborers Local 146-represented employees, joined Roy Varbero in erecting a barricade to prevent the Employer's employees represented by Carpenters Local 210 from performing the work in dispute.

Accordingly, based on the foregoing, and on the record as a whole, we conclude that there exists reasonable cause to believe that Laborers District Council and Laborers Local 146 each violated Section 8(b)(4)(D) of the Act, and that the dispute is, therefore, properly before the Board for determination.

At the hearing, Respondents moved to quash the notice of hearing, contending that they have no dispute, *per se*, with the Employer, and that there is a pending arbitration that will resolve the issues under consideration herein. Thus, Respondents apparently contend, at least in part, that the arbitration would serve as an agreed-upon method for the voluntary adjustment of the dispute. We note initially that, despite Respondents' contentions, they have not disclaimed the work in dispute. With respect to Respondents' claim of a pending arbitration, the record reflects that Respondents have entered into a collective-bargaining agreement with Turner Construction, and that Respondents' collective-bargaining relationship with Robert Dry Wall is in dispute. The Employer has no collective-bargaining relationship with Respondents. The evidence also shows that the applicable clause of Respondents' collective-bargaining agreement is article II, section 7, which states, in relevant part, that "the Employer [Turner Construction] further agrees to refrain from doing business with any subcontractor for work to be done at the site of a construction project covered by this Agreement, except where such contractor subscribed and agrees in writing to be bound by this Agreement and complies with all the terms and conditions of this Agreement."⁷ There is evidence that Respond-

⁷ In essence such clause requires the general contractor to "police" the trade jurisdiction decisions of its subcontractors. We express no opinion as to whether such clause is lawful within the meaning of Sec. 8(e) of the

ents are seeking, through the arbitration process, to enforce this clause with respect to Turner Construction's subcontract with Robert Dry Wall, and thus with respect to the Employer, pursuant to the Employer's subcontract with Robert Dry Wall.

Contrary to Respondents, we find such arbitration not dispositive of the issues we now consider. Thus, as noted above, Respondents' collective-bargaining agreement with Turner does not bind the Employer; the effect of such collective-bargaining agreement upon Robert Dry Wall is also open to question; and neither the Employer nor Robert Dry Wall has agreed to be bound by an arbitration proceeding arising out of the contractual relationship between Respondents and the general contractor, Turner. Respondents appear to make the additional argument that the arbitrator's decision will ultimately be dispositive of the substantive issue of the award of the work in dispute. We disagree. Thus, the Board can adequately interpret the jurisdictional clause in Respondents' contract as it considers the various factors in resolving the disputed work assignment. See, generally, *Typographical Union Local 57 (Reynolds & Reynolds Co.)*, 255 NLRB 592, 593 (1981), and cases cited therein at fns. 3 and 4. Accordingly, we deny Respondents' motion to quash the notice of hearing.

The record also reflects that no party contends that the Impartial Jurisdictional Disputes Board, herein called IJDB, either exists or possesses the authority to resolve the dispute herein.⁸

In conclusion, we find that there is no agreed-upon method for the voluntary adjustment of the dispute to which all the necessary parties to the dispute are bound. Accordingly, we find that this dispute is properly before the Board for determination under Section 10(k) of the Act.

E. *Merits of the Dispute*

Section 10(k) of the Act requires the Board to make an affirmative award of the disputed work after giving due consideration to various relevant factors.

1. Employer's assignment and preference

The Employer herein assigned the disputed work to its employees represented by Carpenters Local 210. The record indicates that the Employer maintains a preference for this assignment, and that its past practice has been to assign the work in dispute herein to its employees represented by Carpenters

Act. See, generally, *Construction and General Laborers 449*, *supra*, which involved a clause similar to the one herein.

⁸ *Construction and General Laborers Local 449*, 260 NLRB at 889. That case reflects that the IJDB is not now a viable organization, and no party contends that the status of the IJDB has changed.

Local 210.⁹ These factors support an award of the work to the Employer's employees represented by Carpenters Local 210.

2. Work and skills involved

As discussed above, the work herein involves the unloading and handling of acoustical ceiling tiles and other materials necessary for the installation of acoustical ceilings. The record reflects that such tiles are relatively fragile and are susceptible to being damaged if not handled carefully. Although John Cunningham of Carpenters Local 210 testified that the individuals performing the actual construction work,¹⁰ and who therefore utilize these materials, would be more likely to handle such materials with greater care, we note that none of the parties presented evidence, statistical or otherwise, reflective of the degree of damage inflicted by employees performing such work and represented by either Union. Accordingly, we find the evidence with respect to this factor to be speculative, and inconclusive as to affecting our determination herein.¹¹

3. Collective-bargaining agreements

At all material times, Carpenters Local 210 and the Employer have been signatory to the collective-bargaining agreement between the Associated General Contractors of Connecticut, Inc., and that Union. Article 13, section 4, of that contract specifies that employees represented by Carpenters Local 210 shall perform the "unloading, distribution of hardwood flooring, rugs, floor tile, metal partitions, acoustic tile, trim and runners, roofing and siding"

Respondents also provided a copy of their contract with the Associated General Contractors of Connecticut, Inc. As noted above, however, the Employer is not signatory to that contract, and the collective-bargaining relationship between Respondents and Robert Dry Wall is in dispute as well. The record also reflects, however, that the general contractor, Turner Construction, is signatory to this agreement, and that it employs individuals represented by Respondents. Respondents' contract, at article V, claims "all building Laborers' work necessary to tend the carpenters, such as unloading, handling, and distribution of materials" Appendix A of the contract also refers to "[u]nloading, handling and distributing of all materials, fixtures, furnishings and appliances from point

of delivery to stockpiles and from stockpiles to approximate point of installation."¹²

As discussed above, Respondents seek to enforce their claim to the work in dispute through the contractual arbitration procedure involving the provision of that agreement which requires the general contractor to "police" the trade jurisdiction decisions of its subcontractors; and it is this provision on which Respondents apparently rely in support of their contention that the Employer should assign the work in dispute to individuals represented by them, despite the fact that no contractual relationship exists between Respondents and the Employer.

With respect to the substantive contentions regarding the work in dispute, a review of the collective-bargaining agreements reveals that each of the Unions herein has defined its own trade jurisdiction to cover the work in dispute, so that such agreements, on their face, do not favor an award of the work to individuals represented by any of the Unions herein. What is of significance, however, is that the Employer herein, the entity with the authority to assign the work, does not employ any employees represented by Respondents nor has the Employer entered into any collective-bargaining agreement with those Unions. Accordingly, and based on all of the above, we find that the only collective-bargaining agreement with any applicability to the dispute herein is that in existence between the Employer and Carpenters Local 210, and which we therefore find favors an award of the work in dispute to the employees represented by that Union.

4. Efficiency and economy of operations

As noted above, the Employer does not employ any employees represented by Respondents. Thus, in order for individuals represented by Respondents to perform the work in dispute, it would be necessary for the Employer to hire such individuals on an *ad hoc* basis for those times when delivery of materials would be expected at the jobsite. This would present a number of potential difficulties: thus, the delivery truck would have to arrive on schedule so as to minimize downtime, and, if the truck did not arrive, Respondents' contract would require "Reporting Time Pay" even though no work would have been performed. The other option would be for the Employer to utilize Respondents-represented employees employed by the general contractor, and then be backcharged by the general contractor for the use of those employees.

⁹ *Ibid.*

¹⁰ Such individuals would be employees represented by Carpenters Local 210.

¹¹ See *Construction and General Laborers Local 449*, *supra* at 886, which considered the same contention.

¹² Appendix "A," "TENDERS." This section defines "Tending" as the "preparation of materials and the handling and conveying of materials to be used by mechanics of other crafts"

The record does not reflect whether, in a back-charge situation, the Employer would be subject to the "Reporting Time Pay" contractual provisions in the event of nondelivery; but it seems logical to assume that, at the very least, the Employer's utilization of the general contractor's labor force would be subject to its availability, and would thus be at the sufferance of the general contractor.

As to the current arrangement, the Employer assigns as many employees represented by Carpenters Local 210 as are necessary to unload a particular truck at a given time. Thus, the unloading conditions are not unchanging, and the number of individuals assigned would depend on the size of the shipment, the traffic at the loading dock, and the urgency of need for the materials to be unloaded. In sum, assigning the work to its own employees allows the Employer maximum flexibility both as to number of employees assigned and the duration of assignment.

Accordingly, we find, based on all of the above, that the factor of efficiency and economies of operations favors an award of the work in dispute to employees represented by Carpenters Local 210.

5. Industry and area practice

No evidence was adduced concerning industry practice with respect to the work in dispute, although the record does contain uncontroverted evidence¹³ that area practice favors an award of the work in dispute to Carpenters Local 210-represented individuals. Accordingly, a consideration of these factors favors an award of the work in dispute to individuals represented by Carpenters Local 210.

6. Prior award of the Board

On 12 March 1982, in Cases 39-CD-5 and 39-CD-6,¹⁴ which involved the Employer herein, the same Carpenters local, and Construction and General Laborers, Local Union No. 449, Connecticut Laborers District Council, Laborers International Union of North America, AFL-CIO, the Board awarded the work in dispute therein¹⁵ to employees represented by Carpenters Local 210. Inasmuch as that disputed work also involved unloading and handling of acoustical materials, we find the distinctions between that work and the work at issue herein to be without significance.

¹³ We note that Charles LeConche, the only representative of Respondents who testified, limited his testimony to the labor organization status and operational relationship of those two Unions.

¹⁴ *Construction and General Laborers Local 449, supra.*

¹⁵ The work in dispute involved the unloading and handling of equipment and materials necessary for Modern Acoustics, Inc., to install acoustical ceiling and metal stud and drywall construction at the J. C. Penney site located in the Stamford Town Center.

Accordingly, we find that the Board's Decision in Cases 39-CD-5 and 39-CD-6 favors an award of the disputed work to employees represented by Carpenters Local 210.

Conclusions

Upon the record as a whole, and after full consideration of all relevant factors involved, we believe that the employees of the Employer who are currently represented by Carpenters Local 210, rather than individuals represented by Respondents, should be assigned the work in dispute. We reach this conclusion relying upon the following factors: the Employer's assignment of the disputed work to its own employees; the current collective-bargaining agreements; area practice; that the employees represented by Carpenters Local 210 possess the requisite skills to perform the work; that such an assignment will promote efficiency and economy of operations; and the fact that the Board has previously awarded similar work to employees represented by Carpenters Local 210. Accordingly, we shall determine the dispute before us by awarding the work of unloading and handling of acoustical ceiling tiles and other materials necessary for the Employer to install acoustical ceilings at the Prudential Plaza project, Route 1, Darien/Norwalk, Connecticut, to employees represented by Carpenters Local 210, but not to that Union or its members.

Scope of the Award

The Employer requests that the Board fix the scope of the award to cover all jobs performed by the Employer throughout the Fairfield County, Connecticut, area.

In circumstances where there is an indication that the dispute is likely to recur, it has been the Board's policy to issue an award broad enough to encompass the geographical area in which an employer does business and the jurisdictions of the competing unions coincide.¹⁶ We conclude that the facts herein warrant a broad award. Thus, as fully discussed above, Respondents threatened Turner Construction with future unlawful strike activity, on a statewide basis, if the work in dispute were not assigned to individuals represented by Respondents. Although the threat of future unlawful activity was directed against Turner, the ultimate object of the threat was to apply pressure on the Employer, through Turner, so as to affect an assignment of the work in dispute to individuals represented by Respondents. In sum, we find that such

¹⁶ See, generally, *Electrical Workers IBEW Local 11 (ITT Communications Equipment & Systems Division)*, 217 NLRB 397 (1975).

threat on its face demonstrates Respondents' proclivity to violate the Act; and it is Respondents' stated determination to persist in their proscribed activities, in addition to the fact that, as reflected by the record, the Employer will be performing interior carpentry at area jobsites involving work similar to that which is disputed herein, which leads us to conclude that the dispute is likely to recur.¹⁷ Accordingly, and based on all of the above and the record as a whole, our determination in this case applies to all similar disputes concerning work in the area in which Modern Acoustics, Inc., operates and in which the geographical jurisdictions of Construction and General Laborers Local Union No. 146, Laborers International Union of North America, AFL-CIO, and Connecticut Laborers District Council, Laborers International Union of North America, AFL-CIO, and Local 210, United Brotherhood of Carpenters and Joiners of America, AFL-CIO, all coincide, to wit: Fairfield and Litchfield Counties, Connecticut.

DETERMINATION OF DISPUTE

Pursuant to Section 10(k) of the National Labor Relations Act, as amended, and upon the basis of the foregoing findings and the entire record in this proceeding, the National Labor Relations Board hereby makes the following Determination of Dispute:

1. Employees of Modern Acoustics, Inc., who are currently represented by Local 210, United Brotherhood of Carpenters and Joiners of America, AFL-CIO, are entitled to perform the work of unloading and handling of acoustical ceiling tiles and

other materials necessary for Modern Acoustics, Inc., to install acoustical ceilings at the Prudential Plaza project, Route 1, Darien/Norwalk, Connecticut, and at any of the Employer's other projects, wherever the jurisdictions of Construction and General Laborers Local Union No. 146, Laborers International Union of North America, AFL-CIO, and Connecticut Laborers District Council, Laborers International Union of North America, AFL-CIO, and Local 210, United Brotherhood of Carpenters and Joiners of America, AFL-CIO, coincide, to wit: Fairfield and Litchfield Counties, Connecticut.

2. Construction and General Laborers Local Union No. 146, Laborers International Union of North America, AFL-CIO, and Connecticut Laborers District Council, Laborers International Union of North America, AFL-CIO, are not entitled, by means proscribed by Section 8(b)(4)(D) of the Act, to force or require Modern Acoustics, Inc., to assign the work described in paragraph 1, above, to individuals represented by either or both labor organizations.

3. Within 10 days from the date of this Decision and Determination of Dispute, Construction and General Laborers Local Union No. 146, Laborers International Union of North America, AFL-CIO, and Connecticut Laborers District Council, Laborers International Union of North America, AFL-CIO, shall each notify the Officer-in-Charge for Subregion 39, in writing, whether or not it will refrain from forcing or requiring Modern Acoustics, Inc., the Employer herein, by means proscribed by Section 8(b)(4)(D) of the Act, to assign the above-described disputed work to employees represented by each or both of the above-named labor organizations, rather than to employees represented by Local 210, Union Brotherhood of Carpenters and Joiners of America, AFL-CIO.

¹⁷ See *Teamsters Local 5 (Grinnell Fire Protection Systems Co., Inc.)*, 221 NLRB 1186 (1975), which granted a broad award, relying, *inter alia*, on evidence showing that respondent union therein engaged in conduct reflecting its continued maintenance of its claim to the work in dispute on behalf of the employees it represented.