

International Association of Machinists and Aerospace Workers, Cascade Lodge No. 297 (Globe Machine Manufacturing Co.) and Richard Stodden. Case 19-CB-5000

16 July 1984

DECISION AND ORDER

BY CHAIRMAN DOTSON AND MEMBERS
ZIMMERMAN AND HUNTER

Upon a charge filed on 22 November 1983 by Richard Stodden, an Individual, the General Counsel of the National Labor Relations Board issued a complaint on 6 January 1984 against International Association of Machinists and Aerospace Workers, Cascade Lodge No. 297, the Respondent, alleging that it has violated Section 8(b)(1)(B) of the National Labor Relations Act.

The complaint alleges that Richard Stodden is a foreman for the Employer, Globe Machine Manufacturing Company, and is a supervisor within the meaning of the Act. The complaint further alleges that Respondent's recording secretary, Douglas Still, fined Stodden because he crossed a picket line to perform certain supervisory and/or management functions for the Employer. The complaint alleges that by this conduct the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(b)(1)(B) of the Act. On 2 February 1984 the Respondent filed an amended answer to the complaint admitting all factual allegations in the complaint but denying the conclusional allegation that it violated Section 8(b)(1)(B).

On 8 February 1984 the General Counsel filed a Motion for Summary Judgment. On 17 February 1984 the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. On 23 March 1984 Respondent filed the following response:

Respondent is able to prove that supervisory employee Richard Stodden was observed performing bargaining unit work more than 50 percent of the time and therefore is subject to disciplinary action under *Florida Power and Light*, 417 U.S. 790 (1974) and *Food Employers Council Incorporated*, 216 NLRB 917 (1975).

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on the Motion for Summary Judgment

The Respondent's amended answer to the complaint admits that it fined Stodden because he crossed a picket line to perform supervisory func-

tions. However, the Respondent's amended answer also denies the commission of any unfair labor practices and requests that the complaint be dismissed because it fails to state a valid claim for relief.

A union violates Section 8(b)(1)(B) of the Act when it fines a supervisor-member for crossing a picket line to perform regular supervisory duties.¹ The basis for the General Counsel's Motion for Summary Judgment is the Respondent's admission that it fined Stodden for performing supervisory functions. The Respondent's response to the Notice to Show Cause alleges merely that Stodden "was observed performing bargaining unit work more than 50 percent of the time . . ." The response fails to allege the Respondent disciplined Stodden for such conduct or that it knew of his performance of unit work when it fined him. We find that the response does not amend the Respondent's admission that it fined Stodden for performing supervisory duties. Based on the Respondent's admission we conclude that the Respondent has violated Section 8(b)(1)(B) of the Act. Accordingly, we grant the General Counsel's Motion.

On the entire record, the Board makes the following

FINDINGS OF FACT AND CONCLUSIONS OF
LAW

I. BUSINESS OF THE EMPLOYER

The Employer, a Washington corporation, is engaged in the manufacture of plywood machinery and replacement parts. During the past year the Employer purchased materials valued in excess of \$50,000 from outside the State. We find that Globe Machine Manufacturing Company is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

II. THE LABOR ORGANIZATION INVOLVED

The International Association of Machinists and Aerospace Workers, Cascade Lodge No. 297, is a labor organization within the meaning of Section 2(5) of the Act.

III. ALLEGED UNFAIR LABOR PRACTICES

The Employer has at all material times employed Richard Stodden as a supervisor within the meaning of Section 2(11) of the Act. On or about 14 July 1983 Respondent's recording secretary, Douglas Still, acting on the Respondent's behalf, fined Stodden because he crossed a picket line to per-

¹ See *American Broadcasting Co. v. Writers Guild of America West*, 437 U.S. 411 (1978).

form certain supervisory work. By fining Stodden because he crossed a picket line to perform supervisory duties for the Employer, the Respondent has committed unfair labor practices within the meaning of Section 8(b)(1)(B) and Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has engaged in unfair labor practices within the meaning of Section 8(b)(1)(B) of the Act, we shall order that it cease and desist therefrom and take certain affirmative action designed to effectuate the purposes of the Act.

As we have found that the Respondent has unlawfully imposed fines on Richard Stodden we shall order that the Respondent rescind the fines levied against him and reimburse him for any sums he may have paid to the Respondent, with interest as provided for in *Florida Steel Corp.*, 231 NLRB 651 (1977).² We shall also order that the Respondent expunge from its records all references to such discipline and notify Richard Stodden that this has been done.³

ORDER

The National Labor Relations Board orders that the Respondent, International Association of Machinists and Aerospace Workers, Cascade Lodge No. 297, its officers, agents, and representatives, shall

1. Cease and desist from

(a) Fining or otherwise disciplining Richard Stodden or any other supervisor of Globe Machine Manufacturing Company for performing supervisory duties.

(b) In any like or related manner restraining or coercing Globe Machine Manufacturing Company in the selection of its representatives for the purposes of collective bargaining or the adjustment of grievances.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Rescind the fines levied against Richard Stodden, expunge from its files all references to such discipline, and notify him in writing that this has been done and that the discipline will not be used as a basis for future action against him.

(b) Reimburse Richard Stodden for any sums he may have paid as a result of the unlawful action in

the manner set forth in the remedy section of the decision.

(c) Post at its offices and union halls copies of the attached notice marked "Appendix."⁴ Copies of the notice, on forms provided by the Regional Director for Region 19, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to members are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

(d) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

⁴ If this Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

APPENDIX

NOTICE TO MEMBERS
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

WE WILL NOT fine or otherwise discipline Richard Stodden or any other supervisor of Globe Machine Manufacturing Company for performing supervisory duties.

WE WILL NOT in any like or related manner restrain or coerce Globe Machine Manufacturing Company in the selection of its representatives for the purposes of collective bargaining or the adjustment of grievances.

WE WILL rescind the fines levied against Richard Stodden, expunge from our records all references to such discipline, and notify him in writing that this has been done and that the discipline will not be used as a basis for future action against him.

WE WILL reimburse Richard Stodden for any sums he may have paid as a result of our unlawful action against him, with interest.

INTERNATIONAL ASSOCIATION OF
MACHINISTS AND AEROSPACE WORKERS,
CASCADE LODGE NO. 297

² See generally *Isis Plumbing Co.*, 138 NLRB 716 (1962).

³ See *Engineers & Scientists (Lockheed-California)*, 268 NLRB 311 (1983).