

Halltown Paperboard Company and Local Lodge S-87, District Lodge 4, International Association of Machinists & Aerospace Workers, AFL-CIO. Case 5-CA-25225

March 24, 1997

DECISION AND ORDER

BY CHAIRMAN GOULD AND MEMBERS FOX
AND HIGGINS

Upon a charge filed by Local Lodge S-87, District Lodge 4, International Association of Machinists & Aerospace Workers, AFL-CIO, the Union, on March 29, 1995, the General Counsel of the National Labor Relations Board issued a complaint in Case 5-CA-25225. The complaint alleged that Halltown Paperboard Company, the Respondent, violated Section 8(a)(5) and (1) of the National Labor Relations Act by failing and refusing to furnish information requested by the Union. On May 8, 1995, the Respondent filed an answer admitting in part and denying in part the allegations in the complaint. Specifically, the Respondent denied that the information requested was necessary and relevant to the Union's duties as exclusive bargaining representative of a unit of the Respondent's employees. It further denied that the refusal to provide this information violated the Act.

On December 23, 1996, the General Counsel filed a Motion to Transfer Case and Continue Proceedings Before Board and for Summary Judgment. On December 24, 1996, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

Ruling on Motion for Summary Judgment

The complaint alleges, inter alia, that as of about February 13, 1995, the Union, as the exclusive collective-bargaining representative of a unit of the Respondent's employees, requested by letter that the Respondent furnish the Union with the following information: addresses, telephone numbers, marital status, number of dependents, and shift for all bargaining unit employees. As previously stated, the Respondent admits refusing to provide this information but denies that the information is necessary and relevant to the collective-bargaining representative's duties. The answer summarily states that the information withheld was sought "not for collective-bargaining purposes but for organizational purposes."

We find that there are no factual issues warranting a hearing because the Respondent has admitted all relevant factual allegations.¹ We further find that the Re-

spondent's denial of the relevance of the requested information at issue is inadequate to defeat the Motion for Summary Judgment. It is well established that such information about bargaining unit employees is presumptively relevant for purposes of collective bargaining and must be furnished on request. See *Maple View Manor*, 320 NLRB 1149, 1149-1151 (1996) (addresses, telephone numbers, shift); *Sea-Jet Trucking Corp.*, 304 NLRB 67 fn. 1 (1991) (marital status); *Eliason Corp.*, 256 NLRB 1121 fn. 2 (1981) (number of dependents et al.). The Respondents' bare denial of the information's relevance and the assertion that the Union sought the information for organizational purposes is immaterial and does not overcome the presumption of relevance. See *Harvey's Resort Hotel*, 236 NLRB 1670, 1694 (1978) ("No meaningful distinction can be made between the organizational and representational activities of an exclusive majority representative."); *Generac Corp.*, 215 NLRB 351, 355 (1974) ("[U]nion organizational activities of a certified union are considered part and parcel of its duty to adequately represent all of the employees in the unit.").

Accordingly, we grant the General Counsel's Motion for Summary Judgment.²

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

The Respondent is a corporation engaged in the manufacture and nonretail sale of paperboard products at its facility in Halltown, West Virginia. During the 12 months preceding the issuance of the complaint, Respondent purchased and received at its Halltown facility goods and materials valued in excess of \$50,000 directly from points outside the State of West Virginia.

We find that Respondent is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. THE ALLEGED UNFAIR LABOR PRACTICE

Since about 1990, and at all material times to date, the Union has been the exclusive collective-bargaining representative, within the meaning of Section 9(a) of the Act, of the following appropriate unit of the Respondent's employees:

its plant manager. Instead, the Respondent contends that Hardy was its office manager. In light of the Respondent's failure to deny the complaint allegation that Hardy was its supervisor and agent, we find that the Respondent's denial of his alleged title fails to raise a material issue of fact warranting a hearing. For purposes of this summary judgment proceeding, we will assume that Hardy was the Respondent's office manager.

²In agreeing with the grant of summary judgment, Member Higgins notes that Respondent has not specifically contended that marital status is not presumptively relevant information.

¹The Respondent denies the complaint allegation that Joseph Hardy, who refused to provide the information request at issue, was

All production and maintenance employees employed by the Employer at its Halltown, West Virginia facility but excluding salesmen, truck drivers, professional employees, laboratory technicians, office clerical employees, watchman, guards, foremen and supervisors as defined in the Act.

On or about February 13, 1995, the Union, by letter, requested the Respondent to furnish information about the addresses, telephone numbers, marital status, number of dependents, and shift for all bargaining unit employees. The requested information is necessary for, and relevant to, the Union's performance of its duties as the exclusive collective-bargaining representative of the unit. Since about March 7, 1995, the Respondent has failed and refused to furnish the Union with the requested information. We find that this refusal constitutes an unlawful refusal to bargain in violation of Section 8(a)(5) and (1) of the Act.

CONCLUSION OF LAW

By refusing on and after March 7, 1995, to furnish the Union with requested information that is necessary for, and relevant to, the Union's performance of its duties as the exclusive collective-bargaining representative of unit employees, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has violated Section 8(a)(5) and (1) of the Act, we shall order it to cease and desist, and to furnish the requested information to the Union.

ORDER

The National Labor Relations Board orders that the Respondent, Halltown Paperboard Company, Halltown, West Virginia, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Refusing to furnish Local Lodge S-87, District Lodge 4, International Association of Machinists & Aerospace Workers, AFL-CIO with information requested by that Union which is relevant and necessary to its role as the exclusive bargaining representative of the following unit:

All production and maintenance employees employed by the Employer at its Halltown, West Virginia facility but excluding salesmen, truck drivers, professional employees, laboratory technicians, office clerical employees, watchman, guards, foremen and supervisors as defined in the Act.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

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

(a) Furnish the Union the information, requested by it on about February 13, 1995, pertaining to the addresses, telephone numbers, marital status, number of dependents, and shift for all bargaining unit employees.

(b) Within 14 days after service by the Region, post at its facility in Halltown, West Virginia, copies of the attached notice marked "Appendix."³ Copies of the notice, on forms provided by the Regional Director for Region 5, 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 employees 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. In the event that the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since February 13, 1995.

(c) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

APPENDIX

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

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT refuse to furnish Local Lodge S-87, District Lodge 4, International Association of Machinists & Aerospace Workers, AFL-CIO information that is relevant and necessary to its role as the exclusive bargaining representative of the following unit of our employees:

³If 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."

All production and maintenance employees employed by the Employer at its Halltown, West Virginia facility but excluding salesmen, truck drivers, professional employees, laboratory technicians, office clerical employees, watchman, guards, foremen and supervisors as defined in the Act.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL furnish the Union the information that it requested on February 13, 1995, about the addresses, telephone numbers, marital status, number of dependents, and shift for all bargaining unit employees.

HALLTOWN PAPERBOARD COMPANY