3-16-1978

United Steelworkers of America v Trenton Works Division

Innis Christie

L.R.B. No. 2423
(Sec. 49)

LABOUR RELATIONS BOARD
NOVA SCOTIA

IN THE MATTER of the Trade Union Act of Nova Scotia, and

IN THE MATTER of United Steelworkers of America,
Local 1231,
Trenton, Nova Scotia,
on behalf of two hundred and seventy
of its members — Complainants

- and -

Trenton Works Division,
Hawker Industries Limited,
P.O. Box 130,
Trenton,
Pictou County, Nova Scotia

- and -

Carl F. Hingley,
Industrial Relations and Personnel
Manager,
Trenton Works Division,
Hawker Industries Limited,
P.O. Box 130,
Trenton,
Pictou County, Nova Scotia

- and -

R. B. Wark,
Industrial Relations Officer,
Trenton Works Division,
Hawker Industries Limited,
P.O. Box 130,
Trenton,
Pictou County, Nova Scotia — Respondents

A COMPLAINT having been made to the Labour Relations Board (Nova Scotia) on February 20, 1978 pursuant to Section 49 of the Trade Union Act of Nova Scotia by the United Steelworkers of America, Local 1231, on behalf of a number of its members, requesting an Order that the Respondents cease and desist from committing, causing and authorizing a work stoppage and lockout of the individual complainants at the Respondent's place of business in Trenton, Nova Scotia;

AND the Board having considered the Complaint and the documents filed by the Complainants and the Respondents, and representations made and evidence presented on behalf of the parties at a Hearing held on February 22 and March 1, 1978;

AND the Board, for the reasons set out below, not having been satisfied that there was any lockout of the Complainants by the Respondents;

THEREFORE, the Labour Relations Board (Nova Scotia) dismissed the Complaint and so advised the parties on March 1, 1978.

Reasons for Decision:

Before: I. Christie, Chairman and Board Members Messrs. W. Tidmarsh and C. Sanford.

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Innis Christie, Chairman (for the Board):

On February 15, 1978 Hawker Industries Limited filed a complaint seeking a cease and desist order against Local 1231 of the United Steelworkers of America and a number of named employees represented by the Local who, the complainant alleged, were participating in an illegal work stoppage. Following a hearing on Friday, February 17, this Board granted a cease and desist order against certain named employees and all other employees represented by Local 1231 who were participating in the illegal work stoppage.

The facts giving rise to the February 15 complaint by the employer and this complaint by the Union are the same. On Friday, February 11, two men were suspended by the employer for three days for failing to attain the required standard of productivity. On Monday, two hundred and sixty-nine men scheduled to work did not report. On Tuesday, February 14, the company suspended two hundred and three employees for one week, forty-nine for four weeks, and discharged six. The following day pickets were set up at the plant gates and only a skeleton work force reported.

At the hearing of the 17th, Mr. Pink, counsel for Local 1231 and the employees, suggested in the course of argument that the suspensions and discharges may have constituted a lockout. In its deliberations after the hearing the Board concluded that there had been a strike prohibited by the Trade Union Act caused in part, at least, by pickets and therefore issued a cease and desist order on February 17. However, because of evidence of what appeared to be unreasonable intransigence on the part of the employer on Monday, February 13, the Board indicated in its cease and desist order that it would be prepared to receive a complaint alleging an illegal lockout. In that way, Mr. Pink's suggestion could be fully aired and the employer given an opportunity to respond to it.

The following Monday, February 20, the Board received the complaint with which we are now dealing, alleging an illegal lockout by the employer. At the hearings on February 22 and March 1, the Board heard extensive evidence relating to the industrial relations at Hawker Industries' Trenton Works Division over the last several years. The thrust of the case put forward by the complainant Union was that the recent bargaining stance of the employer, the production standards it demanded and the position it had taken on the morning of Monday, February 13, when Union and Company officials were attempting to get the employees back to work, demonstrated existence of a "scheme" to bring economic pressure to bear on the employees in the bargaining unit. It was submitted on behalf of the Union that in the context of this scheme the suspensions and discharges of February 15 should be seen as coming within the definition of "lockout" in the Trade Union Act, which provides

> 1 (1) (o) "Lockout" includes . . . a refusal by an employer to continue to employ a number of his employees done to compel his employees. . . to agree to terms or conditions of employment."

The strongest evidence to support the submission on behalf of the complainants is related to the events of the morning of Monday, February 13. That was the first day of the work stoppage precipitated by the suspension of two highly regarded employees for failing to meet production standards. The Union business agent spoke to Carl Hingley, personnel manager for the employer, at about 10:15 a.m. or 10:30 a.m. and sought the employer's cooperation in getting the men back to work. Mr. Hingley's response was

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that all the employees had to be back by 12:00 noon or the employer would take disciplinary action. Union officials took the position that they would do their best but that many of the illegally striking employees had already dispersed to their homes in the county and it would be quite impossible to contact them all. Mr. Hingley suggested flashes on the radio, a suggestion which the Union eventually followed, but the evidence before us was that there were difficulties with the radio station and they could not get the flashes on the air before noon.

The employer's insistence, at mid-morning, that the employees be back by noon seems to the Board to have been unreasonable and ill advised. Indeed, evidence by Mr. Corey, Vice President in charge of the Trenton Works Division, that he had told Mr. Hingley to give the men until 3:00 p.m. to return to work appears to confirm our impression that the employer mishandled the affair. However, on an assessment of the evidence as a whole, we are not satisfied that this was part of any "scheme" to precipitate a walkout which would then provide an apparent justification for suspensions and discharges intended to bring economic pressure on the employees.

We are not satisfied, in other words, that the refusal by the employer to "continue to employ a number of his employees" was "done to compel his employees to agree to terms or conditions of employment". The employer had an established policy of dealing with illegal walkouts by suspensions for the first and second offence, and discharges for the third offence, and the suspensions and discharges that occurred here were consistent with that policy. In the opinion of the Labour Relations Board, therefore, there was no lockout by the Respondents of the individual complainants on Tuesday, February 14, 1978.

THIS INTERIM ORDER MADE BY THE LABOUR RELATIONS BOARD (NOVA SCOTIA) AT HALIFAX, THIS SIXTEENTH DAY OF MARCH, 1978, AND SIGNED ON ITS BEHALF BY THE CHIEF EXECUTIVE OFFICER.

P. F. Langlois
Chief Executive Officer