DETROIT REVOLUTIONARY MOVEMENT RECORDS

BOX 2 OF 16

FOLDER 21

CHRYSLER ELDON ELRUM

WORK STOPPAGE 1969

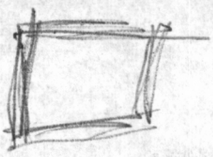
[illegible] Disqualify. — II [illegible], Conclusion to law clerks;

A. Discharge and Discipline of Ees Subsequent to the Work Stoppage in January, 1969, Constitutes a Violation of Sec 8(a)(3) of the Act.

In January of 1969, certain black employees at the Eldon Plant entered in a work stoppage to protest a) unfair labor practices committed by the employer with the consent of the UAW and Local 961 and b) abnormally dangerous work conditions at the Eldon Plant.

The unfair labor practices against which the employees were protesting are described supra and constituted violations of Secs. 8(a)(1), 8(a)(3), and 8(b)(2). In sum, the employer and unions were attempting to interfere with and were in fact interfering with the organization of ELRUM and were discriminating (in regard to conditions of employment) against certain employees & in order to discourage membership in ELRUM.

Because of its purposes, this concerted work stoppage constituted protected activity under the United States Supreme Court's decision in Mastro Plastics Corp v. NLRB, 350 U.S. 270, 100 L. ed. 309 (1956) as well as Sec 502 of the Act.

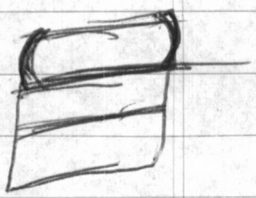


A. ——

B. Order defendants, joint and severally to pay punitive damages of $100,000 for each Plaintiff for injuries so wrongfully sustained.

C. —— and to restore Plaintiffs seniority rights pursuant to Articles A + B.

B.



13,000 bill

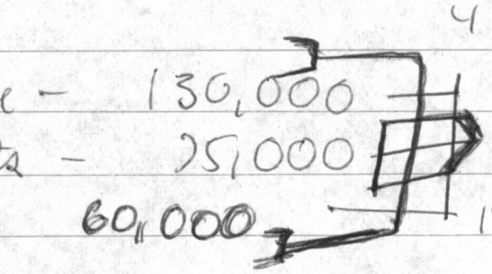
15,000 (14,800)

13,000 - by 13TH

26
27
4
} $15,000

9.6

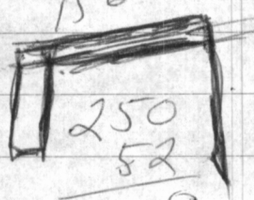
10.0



profit - 130,000
debts - 25,000
60,000

and cap. reserve
15,000 cap. assets

52
300
1500



250
52
500
1250
1300 6

833-8269
Henry Wells

DRUM

x a) Safety q's → RR + MA

b) Brief → rough to RR

c) Issues of DRUM - head on ? political + theoretical position as anti-racist; Frank Joyce ?

D. R. U. M.

Labor Org.
Protected
ACTIVITY
a) MASTRO
b) WATIC Electric

Masto Plastics Corp v. NLRB, 350 U.S. 270, 100 L. ed. 309 (1956)

Petitioners and Carpenters U > K w/ no strike clause - Wholesale + Warehouse wkrs U sought to displace CU;

Ps enlist aid of 3rd U > Pulp, Sulphite and Paper Mill wkrs - CU filed ulp chs vs. PU + ers - one mem of CU disch'd for activities v. PU. → STRIKE - neither K nor 60-day colg pd had expired.

Ulp strike - "... striking ees do not lose their status and are entitled to reinstatement w/ back pay, even if replacements for them have been made."

K only bars cum. strikes altho uses term "any strike"
(Here, strike re c. barg rep)

"That interpretation would eliminate, for the whole yr., the e's rt to strike, even if petitioners, by coercion, ousted the es' lawful barg'g rep. and, by threats of discharge, caused the es to sign mem-ship cards in a new U."

(N.B. Sec. 8(d) doesn't deprive indivs their ee status when w/i the waiting pd (8(d)(4)) they engage in ulp strike.)

National Electric Products Corp, 80 NLRB 995 (1948)
238 F2d 128
113 NLRB 1
115 NLRB 388
[Strike protest disch of e; disch > request of U (Hung)(8(a)(3) viol) > ee + U cooperated re " [CHECK RESULT]

§502 > NLRB v. Knight Morley Co., 251 F.2d 753 (CA 6, 1957) cert. den. 357 U.S. 927 (1958)

Nat'l Electric Products Corp., 80 NLRB 995 (1948)

See fcts supra;

MAJ.: I Finds disch of ee, Mafia, =ulp> e resigned as Pres of IBEW + campaigned for UE → R so informed;

IBEW told R π no longer in gd standg w/ IBEW (cert U) + requested em'nt be suspended; π suspended.

"We find, as did the Trial Examiner, that this activity of Mafia on behalf of a rival organization, which occurred at an appropriate time toward the close of the K period, was the reason for the IBEW's suspending Mafia from mem-ship and obtaining his suspension from em'nt." (999)

Knowledge → requirement filled, by UE's advice that IBEW contemplated ac. vs. UE advocates; campaign itself, timing of IBEW request for suspension of π. Also statements by UE to R at time of suspension;

See Spicer Manufacturing Corp., 70 N.L.R.B. 41

Finds U-Shop Agreement.

II Picketing + wk stoppage following day > 5 ees were suspended (altho back by time of hg)

Find: not protected activity - viol of NO-strike cl. in K - waiver of it by strike;

Chairman Herzog, concurring:

"For it seems to me likely to encourage the commission of unfair labor practices of such provocative magnitude that, human nature and the Bd's delays being what they are, e's can reasonably be expected - or intended - by their R to turn to what would prove to be suicidal self-help." (1002)

Member Houston, dissenting in part:

"It is s/thing less than just to say that an R who has secured from his e's a relinquishment of their basic rt. to strike may remain, nevertheless, quite unhampered in whatever arrangements he has made to impose heavy penalties on his e's solely because they protested, in a traditional way, his disposition to violate the law." 1003-1004

Labor organization

NLRB v. Buitoni Foods Corp., 298 F. 2d 169 (CA 3, 1962), 49 LRRM 2397

"There is ample ev. that the grievance comm. was a labor org. (~~meeting~~ ...); it was admittedly organized for the purpose of dealing w/ the grievances of the e's concerning wages, hrs, + conditions of em'nt." (49:2400)

w/i the meaning of Section 2(5) of the Act, 29 U.S.C.A. 152 (5)

↓

CHECK OUT!

See NLRB v. Cabot Carbon Co., 360 U.S. 203, 210; 44 LRRM 2204 (1959)

Definitive case re Sec 2(5)

"Certainly noth'g in that section indicates that the broad term 'dealing w/' is to be read as synnymns w/ the more ltd. term 'bargaining w/'.

"... The legislative history of §2(5) strongly confirms that Congress did not understand or intend those terms to be synnymns." (2207)

"The C/A's was therefore in error in hold'g that ... Em-e Committees, which exist for the purpose, in part at least, 'of dealing w/ RS concerning grievances * * * or conditions of work,' are not 'labor organizations,' w/i the meaning of §2(5), simply because they do not 'bargain w/' RS in 'the usual concept of collective bargaining.'" (Emphasis original.) (2207)

American President Lines v. NLRB, 340 F.2d 490 (CA 9, 1965), 58 LRRM 2279

"We have carefully viewed the entire record and we are satisfied that there is substantial ev. in the record, considered as a whole, which discloses dealing betw the Ee Relating Comm and petitioner in the subjects of grievances, wages, rates of pay, hrs of emp'mt + conds of wk, + that the Comm. existed, at least in part, for the purpose of dealing w/ petitioner on such matters." (2280)

Abco Surgical Supports, Inc., 154 NLRB No 53 (1966), 61:1404

R aided griev. comm vs. U - had meetgs w/ comm., etc.

Comm. = lab. org. w/i meang of LMRA Sec 2(5) - even tho com. > no const. + by-laws + no dues; comm is org in which ees participate + exists for purpose of dealing w/ + re conditions of wk.

Walker Process Equipment, Inc., 163 NLRB No 78 ('67), 64:1444

Comm., despite orig + primary func. as a recreation A, = lab o. where deals w/ grievances. "It had sometimes presented grievances."

protected activity

NLRB v. Erie Resistor Corp., 373 U.S. 221 (1963), 53:2121

NLRB v. Burnup and Sims, Inc., 379 U.S. 21 (1964), 57:2385

2 org R - 3rd e sel 2, while soliciting him for mem-ship in U, told him U would use dynamite to get in if U didn't acquire authorizations. 2 disch'd bec of alleged statemts;

ulp + Bd rd viol's of 8(a)(1)
8(a)(3)

↙

charges were untrue - no threats - R's honest belief no defense.

C/A refused to enforce

"... § 8(a)(1) was plainly violated, whatever the R's motive." (2385)

"Over and again the Bd. has ruled that §8(a)(1) is violated if an e is disch'd for misconduct arising out of protected activity despite the R's gd faith, when it is shown that the misconduct never occurred... In sum, §8(a)(1) is violated if it is shown that the discharged e was at the time engaged in protected activity, that the R knew it was such, that a basis of the disch was an alleged act of misconduct in the course of that activity, + that + e was n't, in fact, g of that misconduct."

"Otherwise, the protected activity would lose some of its immunity, since the example of ees who are discharged on false charges would/might have a deterent effect on other ees. . . . A protected activity acquires a precarious status if innocent ees can be discharged while engaging in it, even though the r acts in gd faith."

internal remedies

Glover v. St. Louis-San Francisco Ruy Co., 37 U.S.L.W. 4084, —— U.S. —— (Jan 14, 1969)

Smith v. Evening News

Reverse grant of MTD

Here, alleged breach of duty of fair rep. under Railway Labor Act;

"In this situation no meaningful distinction can be drawn between discriminatory action in negotiating the terms of an agreemt. and discriminatory enforcement of terms that are fair on their face."

Distinguish or reconcile Maddox 379 U.S. 650
Vaca 386 U.S. 171

386 U.S. at 185:

"'However, because these, usual remedies have been devised + are often controlled by the union + the r, they may well prove unsatisfactory or unavailable for the indiv. grievant.'"

"The circumstances of the present case call into play another of the most obvious exceps to

the exhaustion requirmt – the situation where the effrt to proceed formally w/ dual or administrative remedies would be wholly futile. In a line of cases beginning w/ Steele v. Louisville + Nashville R. Co. . . ., the Court has rejected the contention that ees alleging racial discrim should be required to submit their controversy to 'a group which is in large part chosen by the [EE] vs. whom their real complt is made.'"

formal effrt > futile – repeated complts satisfy Madden "... and no time-consuming formalities should be demanded of them."

Smith v. Evening News Association, 371 U.S. 195, 9 L. ed. 2d 246 (1962)

It is clear from the SCt's Smith dec. that doc of "exhaus of internal remedies" does not apply

"The authority of the Board to deal w/ an ulp which also violates a c-b k is not displaced by §301, but it is not exclusive and does not destroy the jurisdiction of the courts in suits under §301."

ulp = viol of duty of fair rep.

Miranda Fuel Co., 140 NLRB 181 (1962)

Sting

-1- 1942-4M

361-591M
after 4:30
3792 N-wtern
6
DET.

Jurisdic.
1 June 2 — June 23

CC –
Δ's perm.
CIC –
2nd diversity
MOT.

Appear.
AR Mgmt
3

Contin –
affit –
Contin
willing to
dismiss –
h/self
4

§502 - NLRA

Knight - Morley - supra

NLRB v. Wash. — SIXTH CIRCT.
50: 2235
55: 2889
56: 2048
51: 1130; 1456

NLRB v. Washington Aluminum Co., 370 U.S. 2 (1962), 50 LRRM 2235

7 walk off - 400 colel
discharged

"We cannot agree that ee necessarily lose their rt. to engage in concerted activities under §7 merely because they do not present a specific demand upon their r to remedy a condition they find objectionable. The language of §7 is broad enough to protect concerted activities whether they take place befre, after, or at the same time such a demand is made."

"... policy of the Act to protect the right of wkrs to act together to better their wkg cndns."

SC rv. CIA's refusal to enfrce Bd's order of reinstmt bec of §(a)(1) vflp - 10(c)

Philadelphia Marine Trade Ass'n v. NLRB, 330 F.2d 492 (CA3, 1964), 55:2889

"The short answer to this is that bec the U's activity was found to come w/i the ambit of §502, it was not a strike in violation of the K but, on the contrary, was protected activity. In these circumstances, the Bd. properly concluded that the lockout by the PMTA in an attempt to compel the longshoremen to abandon this protected activity gave rise to a violation of §8(a)(3) + (1)."

Knight-Morley, supra at 759

"Since Section 502 provides that walkg out under a gd. f. belief of abnormally dangerous conds does not constitute a strike, the NO-strike provision was not applicable."

Belfry Coal Corp., 139 NLRB No. 86, 51: 1456 (1962)

R viol 8(a)(1) - disch e who refused to wk in mine "dangered off" by st. mine insper.