Chrysler Case

11-30-71 Eldon Discharge Arbitration – G. Alexander

JT) Did not receive written warning; not founder of Wildcat; Voorhies incident. misstated. – ~~Hunt~~ ~~Eldon~~

Q: didn't NLRC decision in Hobey case call Chrysler's conduct into question? all these Folks were reinstated!

Not true we continued "picketing & demonstrating" at the plant.

they should specify why

p. 15 "less than acceptable" – not true. Not "publisher" of Wildcat. – Nothing obscene or ~~so~~ scurrilous. ~~at~~ any rate [they should tell us what they consider scurrilous or obscene]

p. 16 Not true that E.W.S.C. leaflets attacked U.A.W. & local unions.

p. 18 Many elee's consider Eldon dangerous.

p. 18 Misquoted Elton language.

p. 19 Not true we continued to picket and demonstrate. They should prove this!

p. 19 I had nothing to do with Exhibit C. This was Edwards'

Re Medical: They should submit all their medical, not just their own pathologists

p. 20 Tar J-4. & me with brush used to tar A.C., RM & JE re: 7/16/71 JJ leaflet

p. 21 Must hammer on my "good faith belief"

p. 22 Did claim ~~of~~ or particular ~~of~~ working conditions were abnormally dangerous

p. 23 Rose Logan: real nature of "sitting working" Also, they should submit all their medical, not just the report of their doctor

p. 25 M. Williams: By own words, M.W. was told to RTW or be fired. Q: what causes uremia; what caused it to flare; what was Plant Dr's. reinstatement examination? - NOT IN last time report: (cf. 3)

p. 27) G. Thompson - why did GT violate jitney safety rules - 1st trip for him. Question
p. 28 "adequate training" - "South yard" not good as described

p. 29 Condition of jitney - cf. Utter's inspection report.

30 Unsafe jitneys endanger everyone. Here was one in Dept. 75 without brakes.

30 Conditions Dept. 75 - my descriptions - Mgt's. "rebuttal" lies. - esp. oil on floor + Lube-Rite. grinder was fixed week after action.
Look to Dept. 75 complaints in Aug 1970
K - esp. Modern Grinder.

p. 37 Safety Stats, based on a false premise - cf. 9/30/70 Dept. of Labor study.

15 Superintendents
40 Genl. Foremen
193 Foremen

J.T. Hayes: Industrial Security + Safety Mgr. "Basic Mfg. Divisn." — Eldon, Huber, Forge, Indianapolis Foundry + New Process Gear.

p. 42 If Floors are so clean, + housekeeping so good, why the massive realignment of janitors in Aug. 1970

p. 44) Cf. co. disposition of safety grievances.

p. 45a) Not true the state determines.

p. 48) In Fruin — e/ee's were reinstated because conditions were, in fact, abnormally dangerous

p. 48 Meyers — note strong dissent by Chairman McCulloch. — misstated witness' testimony.

p 54.) They Admit Regional Director dismissed — not the Bd. as stated on Page 50 in section

p. 55) No hearing in this case; how can there be res judicata by NLRB's decision.

60 A.C. + J.T. did not "strike" — we demonstrated + were nothing more than absent.

p. 61 NO RES JUDICATA.

WALK-OUT

Meyers Industrial Electric, 71 LRRM 1425, 177 NLRB 52. (1869)

Employer installed and wired electrical equipment on heavy construction projects. Contract with I.B.E.W. provided 2 journeyman electricians must work together on all jobs involving 440 volts or more. Employer scheduled only 1 electrician on both 2nd & 3rd shifts, and all electricians refused to work under "abnormally dangerous" working conditions.

Held: conditions not "abnormally dangerous." Must follow Redwing Rule which says "danger" is determined by "an objective, not a subjective test." Work was closely supervised, and there were frequent inspections by Corps. of Engineers. Corps. witness also claimed work was not "abnormally dangerous."

Chairman McCulloch, dissented: "I do not believe the Respondent should be allowed to strip these safety standards from the employees and still rely on the no-strike provision in the agreement as an excuse to discharge them for their protest strike." - Also - Corps. engineer said conditions were "particularly dangerous" although not abnormally so.

WALKOUT

Redwing Carriers Inc. * Rockaway Carriers, Inc., and Teamsters Local 79 and Willie P. Mays
130 N.L.R.B 1208, (1961)

9 drivers for e/ers refused to cross picket lines at a plant serviced by e/ers. Evidence was several drivers had received threats of violence from groups of picketers, and there had, in fact, been several violent episodes, though not at this particular picket line. Drivers claimed protection of 502.

Trial Examiner held for drivers: Albert P. Wheatley.

"It appears that Section 502 was inserted into the Act as a protection to those prevented from striking by virtue of no-strike clauses of contracts ... and it is questionable whether it applies in situations such as is involved herein, where there is no collective bargaining agreement.

"In the Knight-Morley case the conditions giving rise to the employee activities were of a fixed and continuing nature and were such that they created an actual constant threat to health."

"The language of Section 502 with reference to good faith suggests that employees are not required to wait until abnormally dangerous conditions are an actual constant and continuing threat and that they may act under a good faith belief that such conditions exist as well as when such

conditions actually exist... It is believed that the evidence adduced herein establishes a good faith belief which has not been overcome by evidence that abnormally dangerous conditions did not exist."

"...it would be appropriate to apply Section 502 and the Knight-Morley doctrine and thus effectuate the policy of Congress of not requiring continuance of work under what the employees in good faith believe to be abnormally dangerous working conditions."

"In summary, the Act give employees, acting in concert and in the face of abnormally dangerous conditions, a right to quit their labor without penalty (either in the face of a no-strike clause or where there is no such clause) in order to protect their health and their lives.

—

Board dismissed the Complaint.

"It is necessary first to clarify the meaning of the term "abnormally dangerous conditions" as used in Section 502. We are of the opinion that the term contemplates, and is intended to insure, an objective, as opposed to a subjective, test. What controls is not the state of mind of the employee or e/ees concerned, but whether the actual working conditions shown by competent evidence

might in the circumstances reasonably be considered "abnormally dangerous".

Steward Fired for giving instructions

Stop & Shop, Inc.; Gary Mackaby 161 N.L.R.B 75. 1966.

Steward fired for advising elec's not to work at a drive-in rack he considered "abnormally dangerous". Safety Engineers for Insure. Co. said rack was safe so long as ordinary safety practices were followed.

Steward claimed he was fired for prior militancy including participation in 's strikes, and trial examiner W. Gerald Ryan agreed.

Overruled by Bd. Applied Redwing test. Stated Insure. Co. safety Engineer o.k.ed the rack & that was good enough.

Misconduct on Strike Picketing

Spielberg Mfg. & Harold Gruenberg. 112 N.L.R.B. 1080 (1955)

4 e/ees fired for alleged misconduct on picket line in a recognition strike. Question of jurisdiction. Union had previously gone to arbitration & lost.

Complaint dismissed for lack of jurisdiction. Bd. not bound by an arbitrator's decision, but may refuse to reconsider if

1) Proceedings were fair & regular
2) all parties agreed to be bound
3) decision ~~not~~ contrary to policy of Act.

"The Bd. & the Courts have frequently held that the use of profane and disparaging language by a striker on the picket line does not affect his right to reinstatement. 198 F. 2nd 645, 185 F. 2nd 413

Misconduct on Picket line

WALKOUT Not Down

Washington Aluminum 370 U.S. 9.

"The Concerted Activity protected under Sect. 7 of the Act unless there is a no-strike clause" ... the statutory protection

"The law is settled that employees who walk off the job en masse because of unpleasant working conditions are engaged in a concerted activity for mutual aid & protection within the meaning of Section 7. Wash. Alum. The law appears equally settled, however, that where such a walkout violates a no-strike clause in a contract, the statutory protection is forfeited. On the other hand, a walkout because of "abnormally dangerous conditions for work" does not violate a no-strike clause" – Knight-Morley.

"I find that the men walked off the job in a good-faith belief that conditions were dangerous to health. But in Redwing Carriers & Rockana Carriers, the Bd. indicated that the test of dangerous conditions is objective, not subjective. This rules places a heavy burden on employees, who must act without the benefit of medical advice and whose choice places either their jobs or their health in jeopardy. However, I am bound by the Redwing language"

Curtis Mathes Mfg. Co. and United Furniture Workers of America, AFL-C.I.O., Local Union 376.
16-CA-1748; 16-CA-1765. 12/17/63.

About 25 of about 250 employees in a furniture plant walked out when the dust removal system malfunctioned. Everyone - employer, employees, union - agreed working conditions were bad.

"I am constrained to find that the working conditions at the time of the walkout, although highly unpleasant, cannot be deemed "abnormally dangerous"... I regard it as significant, though not controlling, that less than 10% of the men walked out, and none from the sanding area where the dust was thickest".

Held: all but three "straw bosses" not supervisors & not in the bargaining unit, remained discharged.

NO

Bluebird Knitwear Co. v. Livingston, 54 LRRM 2476, modified 54 LRRM 2479. (1963)

"Runaway plant" case. Issue was whether the arbitrator has jurisdiction since the Union had already resorted to the N.L.R.B. which had ruled.

Held: Union bound by N.L.R.B. decision. However, may arbitrate individual grievances arising out of contract re: the plant moving away.

12/1/71 Eldon Arbitration - 2nd Day

Union - Cichocki

Summaries: 1) Many discrepancies in company's brief
a) Health & safety grievances - p. 33
2) Delphic survey of BLS
3) Advice of counsel.
a) Stop No one from entering the plant
4) J.T. A.C. & RM. have good work records.
a) good faith - sincerity
5) Utter testimony - & 8/70 Local K
6) Sims' case - would have been reinstated if he'd been a union leader
7) Grievants will follow union procedures in future.
8) Penalty of discharge too harsh - Year & ½ -
a) No proof of any kind that J.T. stopped anyone from working
b) No pictures of A.C. or RM carrying signs.
c) Edwards - did try to create a work stoppage. - Misguided. But no chance to discuss with him.

Chrysler - Miner

1) Grievants picketed -
a) Admission
b) Proof - CP, Capt. Williams.

R.G. - either not telling the truth or fooled a very convincing lawyer - young doctor. Jurisdiction

~~Strike~~

January 1969 - picketing.
5/28/70 - Elder Wildcat said
Elder was.

→ Must prove that Marie Williams, Rose Logan and Gary Thompson's deaths were the result of Chrysler's conditions
E.g. Nature of death & med. cause for M.W. & R.L.
That Gary Thompson never received proper instructions. Not G.T's job.
Witness - from the jitney shop.
hand brake not hooked.
Red tag policy.

Repeated grievances on jitneys

→ Must get medical that shows the causal relationship.

Not a single lost time accident - which includes the period of time for Rose Logan - +/F they narrowly construe - What is a lost time accident is.

I would bet that Ed Stawartz case was not a lost time accident? (worked for a period after the accident.

Who is the National Safety Council? Chrysler is a member.

What is safety? [Safety Engineering means to assume certain negligent acts + engineer to prevent accident].

Mamie Williams died in 5/70 + her death was not attributed to Chrysler Corporation? She died 5/14/70.

I can testify that Dagenais said that he never had the chance to inspect all the machines in the plant? That he was overworked + That he excludes large number of accidents from being defined a lost time injury?

Dagenais must be subpoenaed to testify. Also Lloyd Utter should be called to testify.

Safety does not mean to tell Es to be safe.

As an attorney are you generally aware of the conditions at that plant?

Have you ever had cases involving employees at Elden Avenue

What is Dagenais position? Safety engineer? What is his responsibility?

Washington Alum.—

Check & Brief for J.C.

Chrysler — NLRB Case 7-CA-7999] our case

Curtis Mathes Mfg. — 145 NLRB 473 (1963)

Bluebird Knitwear Co. v. Livingston
54 LRRM 2476 (1963)
modified 54 LRRM 2749 (1963)

Meyers Industries Elec. 177 NLRB No. 52,
71 LRRM 1425 (1965)

Redwing Carriers 130 NLRB 1208 (1961)

Spielberg Mfg. Co. 112 NLRB 1080 (1955)

Stop & Shop, Inc. 161 NLRB 75 (1966)

Amalgamated Food Elees Unn, Local 590 v Logan Valley Plaza
[391 U.S. 308 20 L. Ed. 603, 88 S. Ct. 1601
(Shepherdize!)

Need Leaflet #2 — J. Chihocki — TODAY!

also copy of Sec. 502

Cf also — Fruin-Colnon Const. 139 NLRB 894

Phil. Marine Trade Assoc. 138 NLRB 737