PACIFIC MARITIME ASSOCIATION

Oral Decision 06/22/1939 regarding labor spies

ORAL DECISION

In the Matter of a Controversy
Between
INTERNATIONAL LONGSHOREMEN-S AND
WAREHOUSEMEN-S UNION,
DISTRICT #1,
Complainants
and
WATERFRONT EMPLOYERS- ASSOCIATION,
Respondents

Involving alleged employment of labor spies, informers
or undercover agents within the Union ranks.

June 22, 1939

STENOTYPE REPORTING COMPANY
SAN FRANCISCO
DECISION OF THE ARBITRATOR

THE ARBITRATOR: The Arbitrator is ready to rule. He will submit his ruling in greater detail in writing at a later date.

The ruling involves, gentlemen, what I consider to be an exceedingly important point of procedure so far as arbitration is concerned under this Agreement. A point of procedure which I think counsel for the Union does not fully appreciate at the present time. I shall try in this oral decision to make it as clear as I can, and then I shall supplement this oral decision with a written order.

It would be most unfortunate if I should establish a precedent this morning whereby the Union or the Employers could present for arbitration a general issue or a general question unrelated to a specific dispute. As counsel-s statements make clear, this issue involving the general question of labor spies is not related to any specific bill of particulars charging the Employers with hiring any particular spies or informers.

If I ever established such a procedure, the number of general questions unrelated to specific disputes that could be presented to the Arbitrator by the parties to this Agreement would simply be legion. Talk about excess arbitration! Talk about bankrupting each other by way of arbitration procedure! I just cannot imagine where the end of the list would be if I permitted either side to come in and say, "Now, Mr. Arbitrator, we have a general question we would like to submit for arbitration. Our general question this morning is that we feel that it would be a violation of the Agreement for the employers to have a representative walk into or visit the hiring hall. We are not saying that such a visitation has or has not been made, but we think it would be a violation of the Agreement if such did happen."

That is just one of the types of general questions that I am thinking about. There is nothing but the limitation of the imagination of the two parties to the Agreement that would circumscribe the type of general question that might be submitted to this Arbitrator under such a rule of procedure.

The Arbitrator feels that under the Agreement of October 1, 1938, his powers fall under two main categories:

1. To arbitrate in accordance with contrast law actual disputes over interpretation of the language of the Agreement.

2. To arbitrate specific alleged violations of the Agreement—not hypothetical violations. Not violations put in hypothetical form in regard to which the parties say in an opening statement to the Arbitrator that they have no specific evidence, no specific charges, no bill of particulars which they can present. Hypothetical charges which, nevertheless, they think are supported by some evidence that justifies their belief that a reprehensible practice is going on in this Port.

On the basis of the form of the question and counsel-s opening statement as to what he would prove if permitted to proceed, the Arbitrator rules that there is no arbitrable issue before him.

The Arbitrator wants the record to make clear that whenever this Union is prepared to come before him and say, in effect, this: "Mr. Arbitrator, we charge the Employers with hiring labor spies, informers and stool-pigeons, and we are ready to prove it", and if further there is a deadlock in the Labor Relations Committee over the issue, then I shall rule that there is an arbitrable issue before me. It will then be necessary to look into the Agreement of October 1, 1938 and determine whether under that Agreement the acts protested by the Union constitute a violation of the Agreement.

Now, gentlemen, that is my oral ruling. I shall amplify it for the purposes of your future reference in a written decision because, personally, I think it is the most important procedural issue that has been put before me since I have been arbitrating under this Agreement. My personal view is that it is an exceedingly vital one. If I establish such a precedent as the Union asks for this morning, I can see the arbitration machinery under this Agreement completely break down. I think such a rule would permit either side to completely wreck it. I feel that I certainly would fail in my duty if I did not point that out to counsel for both sides this morning and declare that, on the basis of the showing made by counsel up to the present moment, there is no arbitrable issue before me. I interpret the objection of counsel for the Employers to be an objection that there is no arbitrable issue before me. I interpret the objection of counsel for the Employers to be an objection that there is no arbitrable issue before me, and I sustain the objection.

The next case.