In the Matter of LOUIS NATT D/B/A MRS. NATT'S BAKERY *and* BAKERY AND CONFECTIONERY WORKERS INTERNATIONAL UNION, LOCAL NO. 219

Case No. C-2268.—Decided October 13, 1942

Jurisdiction: bakery products industry.
Unfair Labor Practices.
Interference, Restraint, and Coercion: charges of, dismissed.
Discrimination: charges of, dismissed.
Collective Bargaining: refusal to bargain justified by loss of majority not attributable to any unfair labor practice.
Practice and Procedure: complaint dismissed.

Mr. William M. Pate and *Mr. John C. McCree*, for the Board.
Mr. Emmett Clay Choate, of Miami, Fla., for the respondent.
Mr. Curtis R. Sims, of Chattanooga, Tenn., for the Union.
Mr. Eugene R. Thorrens, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

Upon a second amended charge duly filed on March 26, 1942, by Bakery and Confectionery Workers International Union, Local No. 219, affiliated with the American Federation of Labor, herein called the Union, the National Labor Relations Board, herein called the Board, by the Acting Regional Director for the Tenth Region (Atlanta, Georgia) issued against Louis Natt and Mrs. Louis Natt, doing business as Mrs. Natt's Bakery, Miami, Florida, its complaint, dated May 12, 1942, which, as amended at the hearing, alleged that Louis Natt, herein called the respondent, had engaged in and was engaging in unfair labor practices affecting commerce, within the meaning of Section 8 (1), (3), and (5) and Section 2 (6) and (7) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. Copies of the complaint and notice of hearing thereon were duly served upon the respondent and the Union.

With respect to the unfair labor practices the complaint, as amended, alleged in substance (1) that during the period from January 1, 1942, to the date of the complaint, by various acts the respond-

ent discouraged his employees in their affiliation with and activities on behalf of the Union; (2) that on or about January 8, 1942, the respondent discharged William F. Juriet and Edward T. Foehner because they joined and assisted the Union and engaged in concerted activities with other employees for their mutual aid and protection; (3) that on or about January 9, 1942, and thereafter, the respondent refused to bargain collectively with the Union although it represented a majority of the respondent's employees in a unit appropriate for the purposes of collective bargaining; (4) that, because of the respondent's unfair labor practices set forth above, on or about January 9, 1942, the respondent's employees went on strike and remained on strike until on or about February 23, 1942, when the Union terminated the strike; (5) that on or about February 23, 1942, and thereafter, the respondent refused to reinstate 11 named strikers [1] because they joined and assisted the Union and engaged in concerted activities with other employees for their mutual aid and protection; and (6) that by the aforesaid acts the respondent interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act.

On or about May 21, 1942, the respondent filed his answer in which, among other things, he denied the commission of the alleged unfair labor practices and asserted that the Board has no jurisdiction since the respondent's business is not interstate in character.

Pursuant to notice, a hearing was held at Miami, Florida, on June 1 and 2, 1942, before Peter F. Ward, the Trial Examiner duly designated by the Chief Trial Examiner. The Board, the respondent, and the Union were represented by counsel and participated in the hearing. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing upon the issues was afforded all parties. At the close of the hearing the Trial Examiner granted without objection a motion by counsel for the Board to conform the complaint to the proof with respect to formal matters. During the course of the hearing the Trial Examiner made rulings on other motions and on objections to the admission of evidence. The Board has reviewed all rulings of the Trial Examiner and finds that no prejudicial errors were committed. The Trial Examiner's rulings are hereby affirmed.

Thereafter, the Trial Examiner issued his Intermediate Report, dated July 22, 1942, copies of which were duly served upon all the parties, finding that the respondent had engaged in and was engaging in unfair labor practices affecting commerce, within the meaning of Section 8 (1), (3), and (5) and Section 2 (6) and (7) of the Act.

[1] They are: Fred Schroeder, Fred Brown, Floyd Geyer, Russell Spratt, Otto Bernhardt, Ben Kreuger, Richard Solt, Ola May Solt, Mary Mays, Elizabeth Mays, and Frank L. Cox.

The Trial Examiner recommended that the respondent cease and desist from his unfair labor practices and, in order to effectuate the policies of the Act, take certain affirmative action, including reinstatement of the strikers and the two discharged employees with back pay and, upon request, bargain with the Union. Thereafter, on August 15, 1942, the respondent filed exceptions to the Intermediate Report and submitted a brief in support of the exceptions. None of the parties requested oral argument before the Board.

The Board has considered the exceptions to the Intermediate Report and the brief filed by the respondent and sustains the exceptions, save as they are inconsistent with the findings of fact, conclusions of law, and order set forth below.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE RESPONDENT

The respondent, Louis Natt, has since sometime in 1937 owned and operated in Miami, Florida, an establishment where bakery products are made and sold at retail.

II. THE ORGANIZATION INVOLVED

Bakery and Confectionary Workers International Union, Local No. 219, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the respondent.

III. THE ALLEGED UNFAIR LABOR PRACTICES

A. *The sequence of events*

The Union began organizing the respondent's employees in September 1941. It enrolled no members among them, however, until the following December. On January 8, 1942, the respondent discharged two bakers, William F. Juriet and Edward T. Foehner, who had signed applications for membership in the Union on January 6. The Union first approached the respondent about noon on Friday, January 9, 1942, when it presented a proposed written contract providing, among other things, for a closed shop and concessions as to wages and working conditions, and notified the respondent that the employees would strike unless the respondent entered into a contract on the same day by 3:30 p. m., the end of the day shift and beginning of the night shift. The respondent requested until the following Monday in which to consider the proposed contract and the union representative agreed to refer the request to the employees. The employees, however, insisted

upon the 3:30 p. m. deadline and the union representative notified the respondent prior to 3:30 p. m. of the employees' decision. According to Board witnesses, the employees were disturbed because of the discharges of Juriet and Foehner and feared further reprisals.

About 3:30 p. m. that day the employees assembled outside the bakery where they were addressed by Louis Natt, the owner. He asked the employees to wait until Monday for his answer to the proposed contract and warned them that they would be replaced if they went on strike without granting his request. According to Fred Brown, a union member and one of the strikers who seeks reinstatement in the present proceeding, Natt also told the employees ". . . [the Union] take[s] your money and you don't know what you are going to get . . . . I will close the plant . . ." Brown's testimony, however, is not in accord with Natt's version of what he told the employees [2] and is not corroborated by any other witness, although there were at least 15 employees among the assembled group at the time Natt addressed the employees. Under these circumstances, we credit Natt's testimony and find that Natt did not make the statements attributed to him by Brown. About 14 employees promptly went on strike. Thereafter, the respondent hired new employees as replacements, and three strikers abandoned the strike within a short period after its commencement and returned to work.

During the period beginning about January 15, 1942, and extending to the latter part of February, an international representative of the Union conferred a number of times with the respondent and his counsel but without success. In the course of the negotiations, the respondent referred the Union to his counsel and the respondent's counsel advised the Union that the respondent would grant no concession, although the Union offered to embody in a contract the respondent's established terms and conditions of employment. The respondent claims, however, that the Union never represented a majority of the employees and, if it did, that it lost its majority after January 9.[3] About February 23, 1942, the Union notified the respondent by letter that it had terminated the strike and requested reinstatement of the remaining strikers. The respondent replied, under date of March 13, 1942, that no employment was available, but that it would consider the strikers for reemployment as vacancies occurred. Up to the time of the hearing, June 1, 1942, none of the 11 strikers had secured reinstatement. However, during the period from February 23 to June 1, 1942, the respondent hired no new bakers or helpers for work in the pie department, the job classification in which all the strikers, except one, had been employed by the respondent prior to the strike.

[2] Natt testified that he asked the employees to wait until Monday and that he told them that they would be replaced if they refused to wait and went on strike

[3] We discuss the Union's status as majority representative below in Section III, C. 2.

B. *The alleged discrimination with respect to the hire and tenure of Juriet and Foehner*

The complaint alleges that the respondent discharged William F. Juriet and Edward T. Foehner on or about January 8, 1942, because of their union membership and activities. The respondent contends that Juriet and Foehner were discharged as a result of the discontinuance of production of a bakery item and that the respondent selected Juriet and Foehner for discharge because they had the least seniority among the employees in the production division affected by the change in operation.

Juriet was first employed by the respondent on December 10, 1941, and was assigned to cake decoration work. Shortly thereafter during the month of December, Juriet accepted a temporary position as a bread baker,[4] when the respondent had no more cake decoration work for him to do; and he worked as a bread baker until his discharge. Juriet signed an application for membership in the Union on January 6, 1942. On January 7 Juriet was called to the bakery office where he had a conversation with Louis Natt and Mrs. Natt who was associated in her husband's business in a managerial capacity. In response to an inquiry as to whether he liked his work, Juriet expressed the opinion that he was wasting valuable experience in the work in which he was engaged for the respondent. During the course of the conversation, they discussed a projected plan according to which the respondent might open a branch bakery in another city and employ Juriet as branch manager.[5] Natt also asked Juriet whether in the light of his past experience with unions,[6] he would bargain with a labor organization if he were again in business for himself. Juriet replied in the affirmative. January 8 was an off day for Juriet. Returning home after an absence he found a message to telephone Vance [7] at the bakery. Because of the late hour Juriet did not return the call. The next morning, about 9 o'clock, the respondent's bookkeeper telephoned Juriet and notified him that his services were no longer needed at the bakery inasmuch as the respondent was discontinuing production of rolls for a large customer.

Edward T. Foehner was first employed by the respondent on January 1, 1941, and worked, with the exception of leave to make a trip,

[4] In this capacity Juriet made bread, rolls, and Danish pastries

[5] So far as appears, at the time the respondent had no branch bakery and did not thereafter open a branch bakery or discuss the possibility of expansion

[6] Sometime after 1938 and prior to employment with the respondent, Juriet had operated a bakery of his own in Miami and had had a dispute with a labor organization that called a strike of his employees

[7] Vance's first name does not appear in the record An employee of Boston-Strauss Company, a New York firm engaged in production and sales counseling, Vance was furnished for a few weeks to assist the respondent as an efficiency expert.

through the Easter season of that year when he voluntarily quit. He returned to work with the respondent on December 10, 1941, and worked as a bread baker [8] until the date of his discharge. Foehner signed an application for membership in the Union on January 6, 1942. He discussed the Union with fellow employees and distributed membership application blanks both inside and outside the plant but not during working hours. When Foehner reported for work on January 8, he was handed his pay envelope by Vance in the presence of Mrs. Natt and notified that he was discharged for the same reason given to Juriet.

The respondent contends, as Natt testified without contradiction, that shortly before January 8 he decided to discontinue production of rolls for a large customer, the Royal Castle chain of restaurants, because he found the account unprofitable in view of an increase in the cost of materials and the customer's unwillingness to pay a higher price for the respondent's product; and that he reduced the pay roll when Foreman Fred Schroeder, a member of the Union and one of the strikers who now seeks reinstatement, suggested, when asked by Natt as to what economy could be effected, that his shift could function without the services of two employees in the event that the respondent discontinued production of the rolls. The respondent further contends, as Natt testified, that he selected Juriet and Foehner for discharge since they were the last two employees hired in Schroeder's shift.[9]

We agree with the respondent's contention that the discharges of Juriet and Foehner were not discriminatory. Moreover, the record does not sustain the allegation of the complaint that the respondent interfered with, restrained, and coerced his employees in the exercise of the rights guaranteed in Section 7 of the Act. Witnesses for the Board testified without contradiction, and we find, as did the Trial Examiner, that in September 1941, Natt told a union representative whom he saw in the rear of the bakery not to engage in organizational work upon bakery premises and, about January 7 or 8, 1942, Vance

[8] In this capacity Foehner made bread, rolls, doughnuts, and Danish pastries.

[9] In dismissing, as without basis in fact, the respondent's contention that the two bakers last hired were selected for discharge, the Trial Examiner in his Intermediate Report stresses the fact that the respondent's pay roll shows that another employee, William Jones, who signed an application for union membership on January 9, began work 16 days after Juriet and Foehner, who both started on December 10, 1941. However, Natt testified without contradiction that the respondent hired Jones, who had worked for the respondent during prior seasons, through the mails in the latter part of November 1941, while Jones was in the northern part of the country, and that he had reported for work about 1 week late because of illness. On the basis of the pay-roll record showing December 26, 1941, as the date when Jones actually began work and Natt's testimony referred to above, the Trial Examiner concluded that Jones was hired for the current season after December 10, 1941, and thus had less seniority than Juriet or Foehner. Otto Bernhardt, a member of the Union and one of the strikers seeking reinstatement, and Foreman Schroeder, a witness for the Board, testified, however, that Jones was hired before Juriet or Foehner. Moreover, Jones was a pie baker rather than a bread baker and did not work under Schroeder.

told Foreman Schroeder, under circumstances not disclosed in the record, that the respondent had access to a plentiful labor market for replacements in case of necessity.[10] In view of all the circumstances as disclosed by the record, we attach no material significance to either of these two isolated incidents. In addition, it is clear, as the Trial Examiner found, that the respondent decided to discontinue production of Royal Castle rolls because such business had become unprofitable.[10] Furthermore, Natt based his decision to reduce the pay roll upon Foreman Schroeder's advice that his shift could function without the service of 2 employees in the event that the respondent discontinued production of the rolls. Thus, the suggestion to reduce the staff originated with a member of the Union. Nor does it appear that the respondent discriminated against union members in selecting Juriet and Foehner for discharge. Of the 39 production and maintenance employees on the respondent's pay roll, by January 8, the date of the discharges, 22 had applied for membership in the Union, including 100 percent of the bread bakers.[11] Thus the respondent could not have discharged a bread baker without selecting a union adherent. So far as appears, moreover, both Juriet and Foehner were ordinary rank and file unionists.[12] Along with 8 other employees, they had

[10] In view of the number of employees on the respondent's pay roll after January 8, 1942, the Trial Examiner concluded, however, that no necessity existed for the discharge of Juriet and Foehner, admittedly "all-around" bakers, since a place could have been found for them in other divisions of the bakery. The relevant data with respect to the respondent's pay roll during the period from the date of the discharge to the date of the hearing is as follows:

	Jan. 8, 1942	Feb. 1, 1942	Feb. 23, 1942	June 1, 1942
Total No of employees	39	40	41	23.
Number of bread bakers	7 and 1 baker-porter	6 and 1 baker-porter.	5 and 1 baker-porter	4 and 1 baker-porter.
Number of cake bakers	3 and 1 baker-helper	4	3	2
Number of pie bakers	3 and 1 baker's helper-porter.	3 and 1 baker's helper-porter	2 and 1 baker's helper-porter.	2 and 1 baker's helper-porter.

We interpret these figures in the light of testimony that while the normal resort season in Miami extends from about December 15 to March 15, the upturn in business during the 1941–42 season started late, sometime early in February, and business began a steady decline shortly after February 23. Besides, because of their long experience as bakers, it is reasonable to believe, as the respondent contends, that Juriet and Foehner would not have accepted assignments to more menial positions with less pay. In particular, as set forth above, Juriet had expressed dissatisfaction with the job he then had when he talked to the Natts on January 7 in the bakery office.

[11] In addition, 100 percent of the cake bakers had signed union membership applications. The respondent's three pie bakers and one other employee who served both as a pie baker's helper and as a porter were not union adherents on January 8. So far as appears, however, the four employees in the pie division referred to, with the exception of Jones, had substantial seniority over both Juriet and Foehner.

[12] The record does not disclose the identity of the union leaders among the employees, if any, except that, on January 9, Natt mentioned the names of Foehner and others as occupying such status when the employees assembled outside the bakery between shifts.

signed union membership applications on January 6. About that time, Foehner distributed approximately a half dozen membership applications to employees who signed them, but there is no evidence that the distribution was known to the respondent or that Foehner engaged in any union activity under circumstances which make it likely that the activity came to the respondent's attention.

In his Intermediate Report, the Trial Examiner, in concluding that the respondent had discharged Juriet because of his union activities, laid stress upon the incident which occurred on January 7. While in his conversation with the Natts that day, Juriet had manifested sympathy with the principle of collective bargaining, in view of the absence of any expression of union hostility by the respondent, the fact that the respondent did not interrogate Juriet concerning his union status during the interview, and our belief that the respondent had considered Juriet's dismissal in connection with the proposed curtailment in operations and reduction in staff before calling him to the office, we are of the opinion that the incident shows no more than that the respondent desired to obtain the benefit of Juriet's previous experience as an entrepreneur as an aid in formulating a policy with regard to the existing organizational movement among the employees. Under the circumstances, we find that the respondent reduced the bakery staff as an economic measure and selected Juriet and Foehner for discharge because of their seniority standing at the bottom of the employment list. The evidence does not sustain, and accordingly we shall dismiss, the allegation of the complaint that the respondent discriminated with respect to the hire or tenure of employment of Juriet and Foehner, within the meaning of Section 8 (3) of the Act.

C. *The alleged refusal to bargain*

1. The appropriate unit

The complaint alleges that all production and maintenance employees of the respondent constitute a unit appropriate for the purposes of collective bargaining. Although the respondent denied the allegation in his answer, he does not claim that any other unit is appropriate and, except as noted below,[13] no evidence was introduced at the hearing with respect to the issue of appropriate unit.

We find, as did the Trial Examiner, that all production and maintenance employees of the respondent, excluding management and

However, Natt did not include Juriet in that classification, and Foehner's first overt union activity to the respondent's knowledge occurred subsequent to his discharge when Foehner accompanied the union representative earlier that day and conferred with the respondent

[13] The Union's proposed contract, referred to above, covered "all inside employees, except clerical and management." The Union admits to membership the respondent's production and maintenance employees, including working foremen, but excluding the plant superintendent

clerical employees,[14] at all times material herein constituted and now constitute a unit appropriate for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other conditions of employment. We further find, as did the Trial Examiner, that said unit insures to employees of the respondent the full benefit of their right to self-organization and collective bargaining and otherwise effectuates the policies of the Act.

2. Representation by the Union of a majority in the appropriate unit

As of January 9, 1942, the respondent had 39 production and maintenance workers on the bakery pay roll. Of these, 25 signed applications for membership in the Union, on or before January 9, 1942. However, as indicated above and hereinafter more fully set forth, on that day the employees went on strike; thereafter, the respondent hired substitutes and, by January 15, 1942, had replaced at least 11 strikers who had signed union membership applications. Since we hereinafter find that the strike was not caused or prolonged by any unfair labor practice on the part of the respondent, the persons who replaced the 11 strikers as well as the strikers, must be regarded as constituents of the appropriate unit entitled to participate in the selection of a bargaining representative.[15] There is no showing that any of the persons who replaced the strikers became union adherents.

Accordingly, we find that on January 9, 1942, and thereafter until about January 15, 1942, the Union was the duly designated bargaining representative of a majority of the employees in the aforesaid appropriate unit, and that pursuant to Section 9 (a) of the Act, the Union was at all such times the exclusive representative of all employees in the aforesaid unit for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other conditions of employment. We further find that on and after January 15, 1942, the Union did not represent a majority of the employees in said unit.

3. The alleged refusal to bargain

As hereinabove indicated, about noon on Friday, January 9, 1942, the Union first approached the respondent, presented a proposed contract, and notified the respondent, when Natt requested "a few days time" to consider the proposed contract, that the employees desired to learn the respondent's attitude by the end of the day shift at 3:30 p. m. Natt thereupon agreed to telephone Robert Cook, the Union's organ-

[14] Such unit contemplates the inclusion of working foremen and the exclusion of the plant superintendent

[15] See, for example, *Matter of The Rudolph Wurlitzer Company* and *Piano, Organ and Musical Instrument Workers' Union, Local No 1190*, 32 N L R B 163

izer, about 4 o'clock that afternoon. About 2 p. m., Cook received a telephone call from Emmett Clay Choate, the respondent's counsel in this proceeding, in which Choate stated in substance that the matter had been entrusted to him and that he could not meet with the Union until the following Monday morning, since he desired to study the proposed contract over the intervening week-end. Cook agreed to refer Choate's request to the employees. The employees, however, insisted upon the 3:30 p. m. deadline, and instructed Cook to make an effort to induce Natt to reconsider the respondent's decision to delay negotiations until Monday. Prior to 3:30 p. m. that day, Cook advised Natt that the employees had decided to strike unless the respondent entered upon further bargaining negotiations that day. Thereupon Natt stated that the employees would lose their jobs if they went on strike, and Cook undertook "to talk to the boys again."

As set forth above, about 3:30 p. m. that day, the employees assembled outside the bakery; Natt asked them to wait until Monday for his answer to the proposed contract and warned them that they would be replaced if they went on strike without granting his request. Approximately 14 employees promptly went on strike.

The Trial Examiner, in concluding that the respondent had refused to bargain collectively with the Union on January 9, 1942, based such conclusion upon a finding that Natt in effect stated that the employees would lose their jobs unless they abandoned the Union and by such statement "revoked" recognition of the Union. We do not agree with the Trial Examiner that Natt's remarks are to be so interpreted. The record discloses, as indicated above, that Natt requested the employees that he be allowed time in which to consider the proposed contract and that they would be replaced if they went on strike. An employer is entitled to a reasonable time, varying according to the circumstances of the case, in which to consider the terms of a contract proposed by a labor organization. Moreover, he may replace employees participating in a purely economic strike.[16] Since an employer may in such a setting replace striking employees with impunity, it is not unlawful for him to state such intention. In our view, Natt's request for time over the week-end to consider proposals involving substantial concessions with respect to terms and conditions of employment was not unreasonable, and his warning to the employees of replacement under the circumstances was within the legal province of the respondent. Accordingly, we find that the respondent did not refuse to bargain collectively with the Union on January 9, 1942.

Thereafter, the Union did not resume negotiations with the respondent until on or about January 15, 1942. By that time, however,

[16] See, for example, *National Labor Relations Board* v. *Mackay Radio & Telegraph Co.*, 304 U. S. 333.

as we have found above, the respondent had replaced the strikers and the Union had lost its majority for reasons not attributable to any unfair labor practice on the part of the respondent. In view of our finding that the Union did not represent a majority of the employees in the appropriate unit on and after January 15, 1942, we deem it unnecessary to set forth in detail the course of bargaining negotiations beginning January 15, 1942, and thereafter, and shall dismiss the allegation of the complaint that the respondent refused to bargain with the Union within the meaning of Section 8 (5) of the Act.

D. *The strike and the alleged refusal to reinstate the strikers*

As set forth above, 14 employees went on strike on January 9, 1942. We find that the strike was caused principally by the employees' insistence upon a reply to the Union's proposed contract on January 9 and secondarily because of the respondent's action in discharging Juriet and Foehner. We have found (1) that the respondent did not refuse to bargain collectively with the Union; (2) that the respondent did not discriminate with respect to the hire or tenure of employment of Juriet or Foehner; and (3) that the respondent did not engage in conduct proscribed by Section 8 (1) of the Act. We therefore find that the strike was not caused by any unfair labor practice.

Within a week thereafter, 3 strikers abandoned the strike and returned to work. About February 23, 1942, as set forth above, the Union notified the respondent by letter that it had terminated the strike and requested reinstatement of the 11 remaining strikers; and the respondent replied, under date of March 13, 1942, that the strikers would be considered for reemployment as vacancies, not then existent, occurred. Up to the time of the hearing, June 1, 1942, none of the 11 strikers had obtained reinstatement. However, during the period from February 23 to June 1, 1942, by reason of declining business, the respondent hired no new employees, with 1 exception, for work in any of the job classifications of the strikers. During the period the respondent hired 3 porters and 2 shipping department workers to fill vacancies. Of the 11 strikers, only Cox, a shipping department employee, might have filled 1 of the vacancies which existed during that period. There is no testimony in the record, however, with respect to the relative ability of Cox and the persons hired in preference to him, or any other data concerning them. Under the circumstances we find that the respondent did not discriminate with respect to hire or tenure of employment by refusing to reinstate the 11 strikers after the termination of the strike.

We find that the strike was not prolonged by any unfair labor practice, and shall dismiss the complaint in its entirety.

Upon the basis of the foregoing findings of fact and upon the entire record in the case, the Board makes the following:

CONCLUSION OF LAW

Bakery and Confectionery Workers International Union, Local No. 219, affiliated with the American Federation of Labor, is a labor organization, within the meaning of Section 2 (5) of the Act.

ORDER

Upon the basis of the above findings of fact and conclusion of law, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the complaint against Louis Natt, d/b/a Mrs. Natt's Bakery, be, and it hereby is, dismissed.

MR. WM. M. LEISERSON took no part in the consideration of the above Decision and Order.