

LOCAL 30, INTERNATIONAL UNION OF OPERATING ENGINEERS, 8 OCB 32 (BOC 1971) [Decision No. 32-71 (Cert.)]

OFFICE OF COLLECTIVE BARGAINING
BOARD OF CERTIFICATION

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In the Matter of

LOCAL 30, INTERNATIONAL UNION OF
OPERATING ENGINEERS, AFL-CIO,

Petitioner,

DECISION NO. 32-71

-and-

LOCAL 704, INTERNATIONAL BROTHER-
HOOD OF FIREMEN AND OILERS, AFL-CIO,

DOCKET NOS.

Petitioner,

RU-234-70

RU-235-70

-and-

DISTRICT COUNCIL 37, AFSCME,
AFL-CIO,

Intervenor,

-and-

THE CITY OF NEW YORK AND
RELATED PUBLIC EMPLOYERS

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DECISION AND ORDER

By letter dated April 23, 1971, addressed to John P. McNamara, Director of Representation of the Office of Collective Bargaining, the attorneys for Local 704, International Brotherhood of Firemen and Oilers, AFL-CIO (herein Local 704), requested that the "International Brotherhood of Firemen and Oilers, AFL-CIO" be placed on the ballot in the rerun election in the above cases, stating that Local 704 was "defunct."

Opposition to said request was received from District Council 37, AFSCME, AFL-CIO, by letter dated April 26, 1971, and from the City, by letter dated April 28, 1971. No word has been received from Local 30, IUOE, AFL-CIO.

The said request and the opposition thereto, has been considered and, upon consideration of the entire record

in this matter, is disposed of as follows:

1. The first election in this matter was held on March 9, 1971. Objections to said election were filed by Local 30, International Union of Operating Engineers, AFL-CIO. Hearings in connection with said objections were held on April 1st and April 8th, and no appearance was made on behalf of Local 704 on either occasion, though the attorneys for Local 704 received notice of said hearings. Nor did the Board receive any word of Local 704's or the International's interest to participate in the hearings.

2. On April 8, 1971, Richard J. Horrigan, Esquire, the trial examiner, contacted the office of the attorneys for Local 704 in order to talk to Mr. Lewis, and, in addition, made calls to Messrs. McDonald and Curran of the International in Washington, for the purpose of ascertaining what interest, if any, Local 704 had in this matter and in joining in a stipulation with the other parties consenting to another election. Mr. Horrigan's attempts met with no success. Mr. Lewis did call thereafter, saying only that Local 704 might want to appear on the ballot in the new election. No further word was received until, for the first time, by the said letter of April 23rd, the Board was advised that the International (not Local 704) desired to appear on the ballot. Subsequently, for the first time, the International made a request, "formally," to be placed on the ballot.

3. In the interim, not having received any definitive word from either Local 704, its attorneys, or the International, the Board, on April 12, 1971, approved the said stipulation consenting to a new election including the parties who were to appear on the ballot.

4. The certification originally issued on September 13, 1967, was issued to Local 704 and not to the International. Accordingly, the International may not, at this late date, be substituted as the incumbent union in place and stead of Local 704, concededly defunct.

5. On April 30th, the Board considered the requests contained in the said letters of April 23rd and 29th, to place the International on the ballot and, after such consideration, concluded that, under all of the circumstances, the said requests were untimely made and, on an additional ground, that Local 704, the incumbent certificate holder, is concededly defunct and, therefore, the International may not be substituted for Local 704 and be placed on the ballot.

NOW, THEREFORE, pursuant to the powers vested in the Board of Certification by the New York City Collective Bargaining Law, it is hereby

O R D E R E D , that the said requests dated April 23 and 29, 1971, to place the "International Brotherhood of Firemen and Oilers, AFL-CIO" on the ballot in the election to be rerun on May 12, 1971, in the within proceedings, be, and the same hereby is, denied.

DATED: New York, N.Y.

April 30, 1971.

ARVID ANDERSON
C h a i r m a n

WALTER L. EISENBERG
M e m b e r

ERIC J. SCHMERTZ
M e m b e r