

UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

Trustees of the Colorado Statewide Iron Workers (Erector) Joint Apprenticeship and Training Trust Fund; Trustees of the Colorado Iron Workers Pension Fund; Trustees of the Iron Workers Welfare Plan of Colorado v. A & P Steel, Inc., and the Western Casualty and Surety Company

55 U.S.L.W. 2502 (10th Cir. 1987) · No. No. 84-1489 · Decided March 2, 1987

SUMMARY

The Tenth Circuit reviewed a judgment requiring A & P Steel to pay delinquent contributions, interest, liquidated damages, attorneys' fees, and costs to three union trust funds under collective bargaining agreements. The court held that federal courts had jurisdiction to determine the relevant bargaining unit in the contractual dispute and that A & P, rather than the multi-employer bargaining unit, was the relevant unit for assessing union majority status. Because the agreements were repudiable prehire agreements, A & P's November 14, 1980 repudiation was effective, requiring recalculation of damages.

CASE DETAILS

COURT	United States Court of Appeals for the Tenth Circuit
WRITING FOR THE COURT	Stephen H. Anderson; McKay; Anderson; Baldock
JURISDICTION	Federal
DECIDED	March 2, 1987
DOCKET	No. 84-1489
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	A & P Steel appealed a district court judgment requiring payment of delinquent contributions, interest, liquidated damages, attorneys' fees, and costs to three union trust funds under collective bargaining agreements.
STANDARD OF REVIEW	Clear-error review applied to factual findings concerning union performance, laches, and the special master's covered-work findings; the court reviewed contractual and jurisdictional issues de novo.
PRECEDENTIAL VALUE	published precedential opinion

PARTIES

A & P Steel, Inc., Western Casualty and Surety Company v. Trustees of the Colorado Statewide Iron Workers (Erector) Joint Apprenticeship and Training Trust Fund, Trustees of the Colorado Iron Workers Pension Fund, Trustees of the Iron Workers Welfare Plan of Colorado

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether a federal court has jurisdiction under section 301 to determine the relevant bargaining unit and union majority status when that representational issue is necessary to resolve a contractual contribution claim and is not pending before the NLRB.
2. Whether A & P's assignment of bargaining rights to a multiemployer bargaining unit transformed its section 8(f) prehire agreements into nonrepudiable collective bargaining agreements.
3. Whether frustration of purpose, breach, failure of consideration, or lack of union benefit excused A & P's obligation to make trust-fund contributions.
4. Whether A & P established the defense of laches.
5. Whether the special master's interpretation of covered work and calculation of covered hours were erroneous.

HOLDINGS

1. Under section 301, a federal court may resolve a representational issue, including the identity of the relevant bargaining unit, when resolution of that issue is essential to adjudicating a genuine contract claim and the same issue is not pending before, or previously submitted to, the NLRB.
2. A construction employer's assignment of bargaining rights to a multiemployer bargaining unit does not, absent employee assent, merge the employer's workforce into that unit or transform a section 8(f) prehire agreement into a nonrepudiable collective bargaining agreement.
3. A & P's November 14, 1980 letters constituted an effective repudiation of the section 8(f) agreements, and A & P was not liable for contractual payments accruing after that date, although it remained liable for obligations incurred before repudiation.
4. Frustration of purpose does not apply to a party's simple failure to perform contractual obligations, and A & P failed to prove that the Union's alleged nonperformance excused its contribution obligations.
5. A & P failed to establish laches because it did not show that the Trustees had full knowledge of the relevant facts and unreasonably delayed asserting their rights.

6. The special master's interpretation of covered work and calculation of covered hours were correct, and the district court properly adopted those findings.

KEY QUOTATIONS

“In such a situation, federal court jurisdiction exists notwithstanding the availability of a unit determination by the NLRB if one of the parties filed an unfair labor practice charge or sought unit clarification.” (812 F.2d at 1526)

“Absent employee assent, we cannot accept the view that assignment of a construction employer's rights to an MEBU effects a “merger,” transforming prehire agreements into nonrepudiable contracts on the basis of presumed union majority status in the multiemployer work force.” (812 F.2d at 1529)

“Furthermore, we hold that the letters on or about November 14, 1980, disavowing any contract with the Union at seven specific worksites, constituted a repudiation on their face and, therefore, A & P is not liable for any payments under the contract after its repudiation.” (812 F.2d at 1530)

FACTUAL BACKGROUND

A & P assigned its bargaining rights to the Associated General Contractors of Colorado and became party to two successive collective bargaining agreements requiring contributions to three union trust funds based on hours of covered ironwork. Although A & P submitted monthly reports through January 1980 stating that no covered work had been performed, its employees actually performed 27,929.5 hours of covered work. After the Trustees filed suit, A & P sent letters on November 14, 1980, disavowing its agreements on the ground that the Ironworkers union lacked majority status among A & P's employees.

PROCEDURAL HISTORY

The Trustees sued A & P Steel under section 301 of the Labor Management Relations Act and section 502 of ERISA to recover unpaid contributions. The district court referred calculation of covered work and damages to a special master, adopted the special master's findings, and entered judgment against A & P. The court held that A & P was bound by full collective bargaining agreements because it had assigned bargaining rights to the Associated General Contractors of Colorado. The Tenth Circuit affirmed most rulings but held that the agreements were repudiable prehire agreements as to A & P and remanded for recalculation of damages after repudiation.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand to the district court for recalculation of damages to exclude amounts accruing after A & P's effective repudiation on November 14, 1980. The district court's rulings on the other issues were affirmed.

CASES CITED

- Jim McNeff, Inc. v. Todd, 461 U.S. 260 (1983)
- Lewis v. Benedict Coal Corp., 361 U.S. 459 (1960)
- Textile Workers Union of America v. Lincoln Mills, 353 U.S. 448 (1957)
- Carey v. Westinghouse Electric Corp., 375 U.S. 261 (1964)
- South Prairie Construction Co. v. Operating Engineers, 425 U.S. 800 (1976) (per curiam)
- Carpenters Local Union No. 1846 v. Pratt-Farnsworth, 690 F.2d 489 (5th Cir. 1982), cert. denied, 464 U.S. 932 (1983)
- United Brotherhood of Carpenters & Joiners of America v. W.T. Galliher Bros., Inc., 787 F.2d 953 (4th Cir. 1986)
- Kaiser Steel Corp. v. Mullins, 455 U.S. 72 (1982)
- Baton Rouge Building & Construction Trades Council v. E.C. Schafer Construction Co., 657 F.2d 806 (5th Cir. Unit A 1981)
- NLRB v. Tahoe Nugget, Inc., 584 F.2d 293 (9th Cir. 1978), cert. denied, 442 U.S. 921 (1979)
- NLRB v. Roger's I.G.A., Inc., 605 F.2d 1164 (10th Cir. 1979)
- NLRB v. Local 103, International Association of Bridge Workers (Higdon), 434 U.S. 335 (1978)
- Jordan & Nobles Construction Co. v. New Mexico District Council of Carpenters, 802 F.2d 1253 (10th Cir. 1986)
- Painters Local Union No. 164 v. Epley, 764 F.2d 1509 (11th Cir. 1985), cert. denied, 474 U.S. 1067 (1986)
- Trustees of the Atlanta Iron Workers Local 387 Pension Fund v. Southern Stress Wire Corp., 724 F.2d 1458 (11th Cir. 1983)
- Laborers District Council v. McDowell Contractors, 680 F.2d 94 (11th Cir. 1982) (per curiam)
- NLRB v. Haberman Construction Co., 641 F.2d 351 (5th Cir. Apr. 1981) (en banc)
- Herald Co. v. Seawell, 472 F.2d 1081 (10th Cir. 1972)
- Nash v. Board of Education, 38 N.Y.2d 686, 345 N.E.2d 575 (1976)