

A & J Lumber Company, Inc. and International Woodworkers of America, AFL-CIO, CLC.
Case 10-CA-15732

September 30, 1980

DECISION AND ORDER

BY CHAIRMAN FANNING AND MEMBERS
JENKINS AND PENELLO

Upon a charge and an amended charge filed on April 16 and June 19, 1980,¹ respectively, by International Woodworkers of America, AFL-CIO, CLC, herein called the Union, and duly served on A & J Lumber Company, Inc., herein called the Employer or Respondent, the General Counsel of the National Labor Relations Board, by the Regional Director for Region 10, issued a complaint and notice of hearing on June 26, against Respondent, alleging that Respondent had engaged in and was engaging in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the National Labor Relations Act, as amended. Copies of the charge and complaint and notice of hearing before an administrative law judge were duly served on the parties to this proceeding.

The complaint alleges that, by virtue of a collective-bargaining agreement between the Employer and the Union, effective from August 13, 1979, until August 13, 1982, herein referred to as the current collective-bargaining agreement, the Union has been the exclusive representative of the following employees, herein called the unit employees, for the purpose of collective bargaining:

All production and maintenance employees, including lumber graders, and excluding office clerical employees, professional and technical employees, night watchmen, supervisors, over-the-road truck drivers, sawers and saw filers.

The complaint further alleges that, by virtue of Section 9(a) of the Act, the Union has been, and is now, the exclusive representative of the unit employees for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other terms and conditions of employment.

With respect to the unfair labor practices, the complaint alleges that since January 2 and February 29, 1980, and continuing to date, the Respondent has failed and refused to bargain collectively with the Union as the exclusive collective-bargaining representative of the unit employees. Specifically, the complaint alleges that Respondent has, since January 2 and February 29, failed and refused to

furnish the Union the information duly requested by it.² The complaint further alleges that since May 1 Respondent has failed and refused to bargain collectively with the Union as the exclusive bargaining representative of all its employees with respect to terms and conditions of employment, and with respect to the effects of termination of operations at its Oak Ridge, Tennessee, facility.³ Respondent has not filed an answer to the complaint.

On August 14, counsel for the General Counsel filed directly with the Board a Motion To Transfer Case to and Continue Proceedings Before the Board and for Summary Judgment. Subsequently, on August 19, the Board issued an order transferring the proceeding to the Board and a Notice To Show Cause why the General Counsel's Motion for Summary Judgment should not be granted. Respondent has not filed a response to the Notice To Show Cause.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Upon the entire record in this proceeding, the Board makes the following:

Ruling on the Motion for Summary Judgment

Section 102.20 of the National Labor Relations Board Rules and Regulations, Series 8, as amended, provides, *inter alia*: "All allegations in the complaint, if no answer is filed . . . shall be deemed to be true and shall be so found by the Board . . ." As set forth above, Respondent has not filed an answer to the complaint; the time within which to file having passed, we find all allegations in the complaint to be true. There being no issue in dispute, we grant the Motion for Summary Judgment.

On the basis of the entire record, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF RESPONDENT

The Employer, A & J Lumber Company, Inc., is a Maryland corporation, with its principal office and place of business in Oak Ridge, Tennessee. The

² Par. 10 of the complaint avers that the Union's second request for information was made on February 29, while par. 12 of the complaint dates Respondent's refusal to provide this information as having occurred on February 25 and thereafter. Obviously, the refusal could not have preceded the request and the February 25 date is the result of an inadvertent error. Accordingly, we have treated Respondent's second refusal as having occurred not before February 29 and as continuing to date.

³ It is alleged in the complaint that Respondent terminated operations at its Oak Ridge, Tennessee, facility on or about April 1, 1980.

¹ All dates herein are 1980, unless otherwise specifically stated.

Employer is engaged in the manufacture and sale of lumber within the State of Tennessee. During the past calendar year, which period is representative of its operations during all times material herein, the Employer, in the course and conduct of its business operations, sold and shipped from its Oak Ridge, Tennessee, facility finished products valued in excess of \$50,000 directly to customers located outside the State of Tennessee.

We find, on the basis of the foregoing, that Respondent is, and at all times material herein has been, an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act, and that it will effectuate the policies of the Act to assert jurisdiction herein.

II. THE LABOR ORGANIZATION INVOLVED

International Woodworkers of America, AFL-CIO, CLC, is a labor organization within the meaning of Section 2(5) of the Act.

III. THE UNFAIR LABOR PRACTICES

The Employer and the Union are parties to a collective-bargaining agreement, effective from August 13, 1979, until August 13, 1982, which provides, inter alia, that the Union is the exclusive representative of all the employees in the unit found to be appropriate for the purpose of collective bargaining. Since on or about January 2 and February 29, 1980, Respondent has failed and refused, and continues to fail and refuse, to bargain collectively with the Union as the exclusive bargaining representative of all its employees, in the appropriate bargaining unit, by refusing to furnish the Union with all information requested by it with respect to the name of the employees' insurance carrier, the insurance coverage provided for unit employees, the status of the Respondent's Oak Ridge, Tennessee, operation, the date of closing of that operation, the site relocation of the operations, and the names and addresses of plants, other than the relocated plant, to which work from the Oak Ridge operation has been transferred. Furthermore, since on or about May 1, Respondent has failed and refused, and continues to fail and refuse, to bargain collectively with the Union as the exclusive bargaining representative of all its employees, in the appropriate bargaining unit, with respect to the effects of the termination of operations at its Oak Ridge, Tennessee, facility.

Accordingly, we find that Respondent has, since January 2, February 29, and May 1, and at all times thereafter, refused to bargain collectively with the Union as the exclusive representative of the unit employees, and that, by such refusals, Respondent has engaged in and is engaging in unfair

labor practices within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

IV. THE EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

The activities of Respondent set forth in section III, above, occurring in connection with the operations described in section I, above, have a close, intimate, and substantial relationship to trade, traffic, and commerce among the several States and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

V. THE REMEDY

Having found that Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act, we shall order that it cease and desist therefrom, furnish the Union the information requested by it on January 2 and February 29, and, upon request, bargain collectively with the Union as the exclusive representative of all employees in the appropriate unit.

The Board, upon the basis of the foregoing facts and the entire record, makes the following:

CONCLUSIONS OF LAW

1. A & J Lumber Company, Inc., is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

2. International Woodworkers of America, AFL-CIO, CLC, is a labor organization within the meaning of Section 2(5) of the Act.

3. All production and maintenance employees, including lumber graders, and excluding office clerical employees, professional and technical employees, night watchmen, supervisors, over-the-road drivers, sawers and saw filers, constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act.

4. Since August 13, 1979, by virtue of a collective-bargaining agreement with the above-named employer, the above-named labor organization has been the exclusive representative of all the employees in the aforesaid appropriate unit for the purposes of collective bargaining within the meaning of Section 9(a) of the Act.

5. By failing and refusing on or about January 2 and February 29, and at all times thereafter, to furnish the Union the information requested by it, Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8(a)(5) and (1) of the Act.

6. By failing and refusing on or about May 1, and at all times thereafter, to bargain collectively with the Union as the exclusive bargaining representative of the employees in the appropriate collective-bargaining unit with respect to terms and conditions of employment of said employees, and with respect to the effects of its termination of operations at its Oak Ridge, Tennessee, facility, Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8(a)(5) and (1) of the Act.

7. By the aforesaid actions, Respondent has interfered with, restrained, and coerced, and is interfering with, restraining, and coercing, employees in the exercise of the rights guaranteed them in Section 7 of the Act, and thereby has engaged in and is engaging in unfair labor practices within the meaning of Section 8(a)(1) of the Act.

8. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act.

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that the Respondent, A & J Lumber Company, Inc., Oak Ridge, Tennessee, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Refusing to bargain collectively with International Woodworkers of America, AFL-CIO, CLC, as the exclusive bargaining representative of its employees in the unit herein found appropriate, with respect to the terms and conditions of employment of said employees and with respect to the effects of its termination of operations at its Oak Ridge, Tennessee, facility.

(b) Refusing to bargain collectively with the Union, as the exclusive bargaining representative of its employees in the unit herein found appropriate, with respect to the terms and conditions of employment of said employees, by failing and refusing to furnish the Union with all information requested by it with respect to the name of the employees' insurance carrier, the insurance coverage provided for unit employees, the status of Respondent's Oak Ridge, Tennessee, operation, the date of closing of that operation, the site of relocation of the operations, and the names and addresses of plants, other than the relocated plant, to which work from the Oak Ridge operation has been transferred.

(c) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them in Section 7 of the Act.

2. Take the following affirmative action which the Board finds will effectuate the policies of the Act:

(a) Furnish the Union with all information requested by it on or about January 2 and February 29, 1980, with respect to the name of the employees' insurance carrier, the insurance coverage provided for unit employees, the status of its Oak Ridge, Tennessee, facility, the date of closing of that operation, the site of relocation of the operations, and the names and addresses of plants, other than the relocated plant, to which work from the Oak Ridge operation has been transferred.

(b) Upon request, bargain with the above-named labor organization as the exclusive representative of all employees in the unit described below, with respect to the terms and conditions of employment of said employees and with respect to the effects of its termination of operations at its Oak Ridge, Tennessee, facility. The bargaining unit is:

All production and maintenance employees, including lumber graders, and excluding office clerical employees, professional and technical employees, night watchmen, supervisors, over-the-road drivers, sawers and saw filers.

(c) Forthwith mail a copy of the attached notice marked "Appendix" to each employee who was on its Oak Ridge, Tennessee, payroll at the time of the unfair labor practices herein found. Such notice is to be mailed to the last known home address of each employee.

(d) Post at its principal office in Oak Ridge, Tennessee, and at all its other places of business, copies of the attached notice marked "Appendix."⁴ Copies of said notice, on forms provided by the Regional Director for Region 10, after being duly signed by Respondent's representative, shall be posted by Respondent immediately upon receipt thereof, and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by Respondent to insure that said notices are not altered, defaced, or covered by any other material.

(e) Notify the Regional Director for Region 10, in writing, within 20 days from the date of this Order, what steps Respondent has taken to comply herewith.

⁴ In the event that this Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

WE WILL NOT refuse to bargain collectively with International Woodworkers of America, AFL-CIO, CLC, as the exclusive representative of the employees in the bargaining unit described below with respect to the terms and conditions of employment of said employees, and the effects of the termination of operations at the Oak Ridge, Tennessee, facility.

WE WILL NOT refuse to furnish the Union the information requested by it on or about January 2 and February 29, 1980, with respect to the name of the employees' insurance carrier, the insurance coverage provided for unit employees, the status of the Oak Ridge, Tennessee, operation, the date of closing of that operation, the site of relocation of the operations, and the names and addresses of plants, other than the relocated plant, to which work from the Oak Ridge operation has been transferred.

WE WILL NOT in any like manner or related manner interfere with, restrain, or coerce our

employees in the exercise of the rights guaranteed them by Section 7 of the Act.

WE WILL furnish the Union with all information requested by it on or about January 2 and February 29, 1980, with respect to the name of the employees' insurance carrier, the insurance coverage provided for unit employees, status of the Oak Ridge, Tennessee, operation, the date of closing of that operation, the site of relocation of the operations, and the names and addresses of plants, other than the relocated plant, to which work from the Oak Ridge operation has been transferred.

WE WILL, upon request, bargain with the above-named Union as the exclusive representative of all employees in the bargaining unit described below, with respect to the terms and conditions of employment of said employees, and the effects of the termination of operations at the Oak Ridge, Tennessee, facility. The bargaining unit is:

All production and maintenance employees, including lumber graders, and excluding office clerical employees, professional and technical employees, night watchmen, supervisors, over-the-road truck drivers, sawers and saw filers.

A & J LUMBER COMPANY, INC.