

In the Matter of WILSON & Co., INC. and INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS, LOCAL 955, A. F. OF L.

Case No. 17-R-717.—Decided October 5, 1943

Mr. M. R. Swanson, of Chicago, Ill., for the Company.
Mr. Lee Quisenberry, of Kansas City, Mo., for the Union.
Mr. Louis Cokin, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers, Local 955, A. F. of L., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Wilson & Co., Inc., Kansas City, Kansas, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Margaret L. Fassig, Trial Examiner. Said hearing was held at Kansas City, Kansas, on September 10, 1943. The Company and the Union appeared at and participated in the hearing.¹ All parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded opportunity to file briefs with the Board.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Wilson & Co., Inc. is a Delaware corporation with its principal office at Chicago, Illinois. We are here concerned with its plant at Kansas City, Kansas. During its fiscal year ending October 31, 1942,

¹ Although Packinghouse Workers Organizing Committee was served with notice of hearing, it did not appear.

the Company sold finished products from its Kansas City, Kansas, plant valued in excess of \$500,000, over 50 percent of which was shipped to points outside the State of Kansas. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers, Local 955, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On August 20, 1943, the Union requested the Company to recognize it as exclusive collective bargaining representative of the chauffeurs at the Kansas City, Kansas, plant. The Company refused this request.

A statement of a Field Examiner of the Board, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found to be appropriate.²

We find that a question affecting commerce has arisen concerning the representation of employees of the Company, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

IV. THE APPROPRIATE UNIT

We find, in substantial agreement with a stipulation of the parties, that all chauffeurs at the Kansas City, Kansas, plant of the Company who are engaged in the delivery of meat and meat food products, excluding clerical employees, mechanics, mechanics helpers, car washers, painters, and all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the Act.

V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by means of an election by secret ballot among the employees in the appropriate unit who were employed during the pay-roll period immediately preceding the date of the Direction

² The Field Examiner reported that the Union submitted 9 application-for-membership cards bearing apparently genuine signatures of persons whose names appear on the September 1, 1943, pay roll of the Company. There are 17 employees in the appropriate unit.

of Election herein, subject to the limitations and additions set forth in the Direction.

The parties are in dispute with respect to the eligibility of Fred Grousberger. Up to 3 months before the hearing Grousberger was employed as a full-time chauffeur. However, at that time he was made a mechanic's helper because of a temporary shortage of the latter class of employees. He works as a chauffeur and mechanic at the present time and is paid the same rate as the chauffeurs. It appears that he will resume his duties as a full-time chauffeur as soon as the Company is able to secure an additional mechanic. Under the circumstances, we find that Grousberger is eligible to vote in the election.

DIRECTION OF ELECTION

By virtue of and pursuant to the power vested in the National Labor Relations Board by Section 9 (c) of the National Labor Relations Act, and pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 2, as amended, it is hereby

DIRECTED that as part of the investigation to ascertain representatives for the purposes of collective bargaining with Wilson & Co., Inc., Kansas City, Kansas, an election by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from the date of this Direction, under the direction and supervision of the Regional Director for the Seventeenth Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Sections 10 and 11, of said Rules and Regulations, among the employees in the unit found appropriate in Section IV, above, who were employed during the pay-roll period immediately preceding the date of this Direction, including employees who did not work during said pay-roll period because they were ill or on vacation or temporarily laid off, and including employees in the armed forces of the United States who present themselves in person at the polls, but excluding any who have since quit or been discharged for cause, to determine whether or not they desire to be represented by International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers, Local 955, affiliated with the American Federation of Labor, for the purposes of collective bargaining.