# In the Matter of Memphis Veneer, Inc. and International Woodworkers of America, C. I. O.

Case No. 15-R-1002.—Decided October 5, 1943

Messrs. Wils Davis and O. D. Bratton, of Memphis, Tenn., for the Company.

Messrs. John Hawkins and J. W. King, of Memphis, Tenn., for the I. W. A.

Mr. Louis Cokin, of counsel to the Board.

## DECISION

AND

## DIRECTION OF ELECTION

## STATEMENT OF THE CASE

Upon petition duly filed by International Woodworkers of America, C. I. O., herein called the I. W. A., alleging that a question affecting commerce had arisen concerning the representation of employees of Memphis Veneer, Inc., Memphis, Tennessee, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before J. Michael Early, Trial Examiner. Said hearing was held at Memphis, Tennessee, on September 13, 1943. The Company and the I. W. A. appeared at and participated in the hearing. 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

Memphis Veneer, Inc., is a Tennessee corporation with its principal place of business at Memphis, Tennessee, where it is engaged in

<sup>&</sup>lt;sup>1</sup>Although Local Union No. 2743, Lumber and Sawmill Workers Division of United Brotherhood of Carpenters and Joiners of America, herein called Local 2743, was served with notice of hearing, it did not appear.

manufacture of veneer. The Company purchases logs valued at about \$125,000 annually, approximately 25 percent of which is shipped to it from points outside the State of Tennessee. During the same period the Company manufactures products valued at about \$300,000, about 99 percent of which is shipped to points outside the State of Tennessee. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

#### II. THE ORGANIZATIONS INVOLVED

International Woodworkers of America is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

Local Union No. 2743, Lumber and Sawmill Workers Division of United Brotherhood of Carpenters and Joiners of America, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

On July 28, 1943, the I. W. A. requested the Company to recognize it as the exclusive bargaining representative of the Company's employees. The Company did not reply to this request.

On September 4, 1941, the Company entered into an exclusive bargaining contract with Local 2743. The contract is to remain in effect until September 4, 1943, and from year to year thereafter unless either party thereto notifies the other of a desire to terminate. On July 28, 1943, the I. W. A. made its claim upon the Company. Inasmuch as the I. W. A. made its claim prior to August 4, 1943, the date upon which the contract would have automatically renewed itself, it is apparent that the contract does not constitute a bar to a determination of representatives at this time.

A statement of the Trial Examiner, read into evidence at the hearing, indicates that the I. W. A. represents a substantial number of employees in the unit hereinafter found to be appropriate.<sup>2</sup>

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

The I. W. A. urges that all production and maintenance employees of the Company, excluding clerical and supervisory employees, con-

<sup>&</sup>lt;sup>2</sup> The Trial Examiner reported that the I. W. A. presented 63 membership application cards bearing apparently genuine signatures of persons whose names appear on the company's pay roll of September 10, 1943. There are approximately 107 employees in the appropriate unit.

stitute an appropriate unit. The record indicates that Local 2743 desires the same unit. The Company took no position with respect to the unit. The employees claimed by the I. W. A. and Local 2743 constitute a homogeneous group and are the same as that covered by the contract between Local 2743 and the Company alluded to above.

We find that all production and maintenance employees of the Company, excluding clerical employees 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 of Election herein, subject to the limitations and additions set forth in the Direction.

## 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 Memphis Veneer. Inc., Memphis, Tennessee, 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 Fifteenth 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 they desire to be represented by International Woodworkers of America, affiliated with the C. I. O., or by

Local Union No. 2743, Lumber and Sawmill Workers Division of United Brotherhood of Carpenters and Joiners of America, affiliated with the A. F. of L., for the purposes of collective bargaining, or by neither.

CHAIRMAN MILLIS took no part in the consideration of the above Decision and Direction of Election.