

In the Matter of SOUTHERN WOOD PRESERVING COMPANY and CONGRESS
OF INDUSTRIAL ORGANIZATIONS

Case No. 10-R-988:—Decided October 5, 1943

Mr. Grover Middlebrooks, of Atlanta, Ga., for the Company.

Mr. William Mitch, of Birmingham, Ala., for District 50.

Mr. H. W. Denton, of Atlanta, Ga., for the C. I. O.

Mr. Louis Cokin, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by Congress of Industrial Organizations, herein called the C. I. O., alleging that a question affecting commerce had arisen concerning the representation of employees of Southern Wood Preserving Company, East Point, Georgia, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Paul S. Kuelthau, Trial Examiner. Said hearing was held at Atlanta, Georgia, on September 16, 1943. At the commencement of the hearing the Trial Examiner granted a motion of District 50, United Mine Workers of America, herein called District 50, to intervene. The Company, the C. I. O., and District 50 appeared at and participated in the hearing and 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

Southern Wood Preserving Company is a Georgia corporation operating a plant at East Point, Georgia, where it is engaged in proc-
52 N. L. R. B., No. 198.

essing lumber and lumber products. Over 50 percent of the raw materials used by the Company at its East Point Plant are shipped to it from points outside the State of Georgia. The Company's manufactured products at its East Point plant exceed \$1,700,000 in value annually, approximately 90 percent of which is shipped to points outside the State of Georgia.

II. THE ORGANIZATIONS INVOLVED

Congress of Industrial Organizations is a labor organization, admitting to membership employees of the Company.

District 50, United Mine Workers of America, is a labor organization, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On September 1, 1943, the C. I. O. requested recognition of the Company as the exclusive bargaining representative of the employees at the East Point plant. The Company refused this request.

On January 19, 1942, the Company and District 50 entered into an exclusive collective bargaining contract. The contract provided that it shall remain in full force and effect until January 19, 1943, and "thence forward from year to year. Either party may terminate this agreement by giving 30 days' notice to the other of its desire so to terminate, but in any case such termination shall not occur before January 19, 1943." District 50 contends that its contract with the Company constitutes a bar to the instant proceeding and that the petition should be dismissed. Since the agreement by its terms may be terminated upon 30 days' notice by either party thereto after January 19, 1943, the agreement constitutes no bar to a determination of representatives at this time.¹

Statements of the Trial Examiner and a Field Examiner of the Board, introduced into evidence at the hearing, indicate that the C. I. O. and District 50 each 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 National Labor Relations Act.

¹ See *Matter of Phelps-Dodge Refining Corporation*, 40 N. L. R. B. 1159.

² The Field Examiner reported that the C. I. O. presented 74 membership application cards bearing apparently genuine signatures of persons whose names appear on the Company's pay roll of September 5, 1943. The Trial Examiner reported that District 50 presented 82 membership application cards bearing apparently genuine signatures of persons whose names appear on the September 5, 1943, pay roll. There are approximately 143 employees in the appropriate unit.

IV. THE APPROPRIATE UNIT

We find, in agreement with a stipulation of the parties, that all employees at the East Point plant of the Company, excluding office and technical employees, watchmen, gatemen, foremen, and any other 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 Southern Wood Preserving Company, East Point, Georgia, 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 Tenth 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 Congress of Industrial Organizations, or by District 50, United Mine Workers of America, for the purposes of collective bargaining, or by neither.