

In the Matter of ARMA ELEVATOR COMPANY and GENERAL DRIVERS,  
WAREHOUSEMEN, DOCKMEN AND HELPERS, LOCAL UNION No. 823,  
I. B. OF T. C. W. AND H. OF A., AFFILIATED WITH AFL

*Case No. 17-R-708.—Decided October 11, 1943*

*Mr. Charles C. Wheeler*, of Pittsburg, Kans., for the Company.

*Mr. Floyd C. Webb*, of Joplin, Mo., for the Union.

*Miss Olive N. Barton*, of counsel to the Board.

## DECISION

AND

## DIRECTION OF ELECTION

### STATEMENT OF THE CASE

Upon petition duly filed by General Drivers, Warehousemen, Dockmen and Helpers, Local Union No. 823, I. B. of T. C. W. and H. of A., affiliated with AFL, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of the Arma Elevator Company, Arma, 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 Pittsburg, Kansas, on September 4, 1943. The Company and the Union appeared, participated, and 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 an 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

The Arma Elevator Company is a Kansas corporation engaged in the wholesale grocery, flour, and feed business with its general office and principal wholesale grocery warehouse at Pittsburg, Kansas. It has branches at Arma, Kansas, and Joplin, Missouri. The Com-

pany's branch at Arma, where it operates a branch office, a small feed mill, and a wholesale grocery warehouse, is the only one involved in this proceeding. During the calendar year ending May 31, 1942, purchases of the Arma branch amounted to \$456,424.61 in wholesale grocery items and \$66,634.01 in supplies for the feed mill out of a total of approximately \$1,587,000 purchased by the three branches of the Company. The Company concedes that about 75 percent of its entire purchases originated in interstate commerce. The wholesale grocery items of canned goods, dried beans, flour, soap, and manufactured breakfast cereals for the most part were shipped to Pittsburg from points outside the State of Kansas, but the largest portion of the feed shipped to Arma was purchased in the State of Kansas; the handling of wholesale groceries made up the bulk of Arma's business. Less than 5 percent of the sales of the Arma branch during the same period, consisting of \$519,422.87 in wholesale grocery items and \$64,076.28 in feed out of a total volume of sales of approximately \$1,750,000 for both lines of merchandise for the entire company, entered into interstate commerce. We find that the Company, contrary to its contention, is engaged, at its Arma branch, in commerce within the meaning of the National Labor Relations Act.

## II. THE ORGANIZATION INVOLVED

General Drivers, Warehousemen, Dockmen and Helpers, Local Union No. 823, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America is a labor organization affiliated with the American Federation of Labor. It admits to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

The Union has requested the Company to recognize it as the exclusive bargaining representative of the Company's Arma branch employees. On or about June 4, 1943, the Company refused on the ground that the appropriate unit should consist of all employees of the Company at its three branches, exclusive of clerical and supervisory employees.

A statement of the Field Examiner, introduced in evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found appropriate.<sup>1</sup>

<sup>1</sup> The Field Examiner stated that the Union submitted to him 8 applications for membership, dated between March 26 and April 8, 1943, all bearing apparently genuine signatures of Arma branch employees on the Company's pay roll of May 31, 1943, which contains a total of 20 employees at all three of the Company's warehouses and 8 at the Arma branch.

We find that a question affecting commerce has arisen concerning 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.

#### IV. THE APPROPRIATE UNIT

The Company opposes the Union's request for a unit limited to the Arma branch, and urges a unit covering the three branches, on the grounds that the Company has to a large extent unified management, covers a small territory, and the truck drivers of one branch are under the supervision of another branch on their trips to the other branch for goods.

The record shows that Arma is 10 miles from Pittsburg, where the home office is located. Trucks from the Arma plant go to Pittsburg every day to pick up merchandise, after arrangements have been made over the telephone in a daily morning conference between the two offices. Joplin, Missouri, is 31 or 32 miles from Pittsburg, and trucks from the Arma plant are not sent there. Drivers and trucks are occasionally borrowed between branches, but both are assigned permanently to a given branch. At each plant, regular purchase, sales, and expense records are kept, although monthly reports carry these figures to Pittsburg, where the general assembly books are kept. Each plant has its own pay roll, but the whole is worked out in one pay-roll plan. There is a general labor policy, except that employees at the Arma plant work 1 hour per day longer, but are paid on the same basis.

In March 1943, employees from the Arma plant in the appropriate unit, in a body, asked to become members of the Union. No effort has been made to organize employees at either the Pittsburg or Joplin plants.

We find that a unit confined to the Arma branch is appropriate at this time, without prejudice to a later finding of a unit for the three branches at such time as union organization has extended thereto.

The only remaining dispute concerns Harold Hay, the milling foreman. The Union desires to include him. Since the record shows that Hay is vested with and regularly exercises substantial supervisory powers, we shall exclude him.

We find that all employees at the Company's Arma plant, including truck drivers, but excluding salesmen, office employees, temporary or casual laborers, the milling foreman, and all 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 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 Arma Elevator Company, Arma, 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 those employees who have since quit or been discharged for cause, to determine whether or not they desire to be represented by General Drivers, Warehousemen, Dockmen and Helpers, Local Union No. 823, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, affiliated with the American Federation of Labor, for the purposes of collective bargaining.