

In the Matter of ROHM & HAAS COMPANY and FEDERATION OF GLASS,
CERAMIC & SILICA SAND WORKERS OF AMERICA, AFFILIATED WITH
THE CIO

Case No. 10-R-1013.—Decided October 18, 1943

Messrs. V. C. Henrich, H. W. McIlwaine, and H. F. Hey, of Knoxville, Tenn., for the Company.

Holmes, Lewis & Menendez, by Mr. W. T. Lewis, of Columbus, Ohio, and Messrs. Paul R. Christopher, Harold Dotson, and Richard Wolfe, of Knoxville, Tenn., for the CIO.

Mr. R. O. Ross, of Knoxville, Tenn., for the AFL.

Miss Frances Lopinsky, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon amended petition duly filed by Federation of Glass, Ceramic & Silica Sand Workers of America, affiliated with the Congress of Industrial Organizations, herein called the CIO, alleging that a question affecting commerce had arisen concerning the representation of employees of Rohm & Haas Company, Knoxville, Tennessee, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Harry F. Jones, Trial Examiner. Said hearing was held at Knoxville, Tennessee, on October 4, 1943. The Company, the CIO, and the American Federation of Labor, herein called the AFL, appeared and participated. At the hearing, the AFL representative received a telegram from AFL counsel informing him that counsel was unable to appear at the hearing because he was engaged in the trial of other cases. Thereupon, the AFL moved for a continuance of the hearing to a later date, which motion the Trial Examiner denied for the reasons that counsel for the AFL had ample notice of the date of the hearing and had, in fact, been instrumental in having it set for October 4, 1943, and the other parties had brought counsel and witnesses to the hearing from Columbus, Ohio, and Philadelphia, Penn-

sylvania. It is clear from the record that no prejudice to the AFL resulted from this ruling. We find that 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

Rohm & Haas Company, a Delaware corporation, owns and operates several plants in the United States, including one at Knoxville, Tennessee, where it manufactures plexiglass. It rents the plant from the Defense Plant Corporation on a rental based on the amount of products sold. The tonnage of materials used in production is in excess of 3,000 tons per month, with an approximate value of \$3,000,000 per year. Of this 50 percent by weight and 75 percent by value is imported from States other than Tennessee. Seventy-five percent of the finished product is sold to the United States Government and the remainder to airplane companies. The approximate value of the finished product is \$6,000,000 per year, 95 percent of which is sold outside the State of Tennessee. The Company sells certain intermediate products and organic chemicals to makers of adhesive products. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

Federation of Glass, Ceramic & Silica Sand Workers of America is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

The American Federation of Labor is a labor organization admitting to membership, through a local industrial union, employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On September 9, 1943, the CIO requested a conference with the Company for the purposes of collective bargaining. The Company refused to recognize the CIO as the exclusive bargaining representative of its employees until it should obtain Board certification. Thereupon, on September 18, 1943, the Company and the CIO entered into a consent election agreement providing for an election to be held

October 1, 1943. The Company and the CIO agreed to accord the AFL a place on the ballot. The AFL, however, refused to participate in the consent election and demanded that a hearing be conducted before any determination of representatives was made.

A statement of the Field Examiner, introduced into evidence, indicates that the CIO and the AFL each represents a substantial number of the Company's employees in the unit herein found appropriate.¹

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 accordance with the stipulation of all the parties, that all hourly rated production and maintenance employees of the Company, including cafeteria workers, laboratory workers, yard truck drivers,² group leaders, and floorladies,³ but excluding salaried clerical employees, plant guards, technicians, 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

The CIO requested that the Company's pay roll for September 19, 1943, the pay-roll date agreed upon in the proposed consent election agreement, be used to establish eligibility in any election the Board may direct. As we can perceive no good reason for departing from our usual procedure, the request is hereby denied.

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

¹The Field Examiner reported that the CIO submitted 915 application-for-membership cards, 672 of which bore apparently genuine original signatures which corresponded with names appearing on the Company's pay roll for September 19, 1943, which contained the names of 1,471 persons in the appropriate unit.

The AFL submitted 173 authorization cards, 120 of which bore apparently genuine original signatures which corresponded with names appearing on the Company's pay roll for September 19, 1943.

²The Company employs no outside truck drivers.

³The group leader spends approximately 60 percent of his time checking temperatures, equipment, and materials, 20 percent of his time training new men, and 20 percent of his time seeing to it that all in his group remain occupied. The floorladies inspect molds for specks of dirt and other foreign matter, clean them themselves if they can, and if they cannot, direct the mold makers to take the mold apart and resurface the glass. Neither group leaders nor floorladies have authority to hire or discharge and their recommendations would carry no weight. We find that they are not supervisory employees.

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 Rohm & Haas Company, Knoxville, 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 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 those employees who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the election, to determine whether they desire to be represented by Federation of Glass, Ceramic & Silica Sand Workers of America, affiliated with the Congress of Industrial Organizations, or by the American Federation of Labor, for the purposes of collective bargaining, or by neither.

MR. GERARD D. REILLY took no part in the consideration of the above Decision and Direction of Election.