

In the Matter of LONE STAR DEFENSE CORPORATION and BROTHERHOOD OF PAINTERS, DECORATORS AND PAPERHANGERS OF AMERICA, LOCAL 459, A. F. of L.

Case No. 16-R-700.—Decided October 18, 1943

Mr. K. M. Pritchard and *Mr. A. C. Sprague*, of Texarkana, Tex., for the Company.

Mr. Dick Card, of Texarkana, Tex., 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 Brotherhood of Painters, Decorators and Paperhangers of America, Local 459, A. F. of L., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Lone Star Defense Corporation, Texarkana, Texas, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before C. Woodrow Greene, Trial Examiner. Said hearing was held at Texarkana, Texas, on September 28, 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 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

Lone Star Defense Corporation operates a plant at Texarkana, Texas, known as the Lone Star Ordnance Plant, where it is engaged in the assembly and storing of bombs and other ammunition. All

land, buildings, and equipment at the Lone Star Ordnance Plant are owned by the United States Government. All employees at the Lone Star Ordnance Plant are employed by the Company. A substantial amount of the supplies used at the Lone Star Ordnance Plant are shipped to it from points outside the State of Texas, and a substantial amount of the goods produced at that plant are shipped to points outside the State of Texas.

II. THE ORGANIZATION INVOLVED

Brotherhood of Painters, Decorators and Paperhangers of America, Local 459, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On May 6, 1943, the Union requested the Company to recognize it as the exclusive collective bargaining representative of the Company's painters. The Company refused this request until such time as the Union is certified by the Board.

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.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 National Labor Relations Act.

IV. THE APPROPRIATE UNIT

The Union contends that all employees of the Company engaged as maintenance painters, excluding supervisory and clerical employees, constitute an appropriate bargaining unit. The Company took no position with respect to the scope of the unit urged by the Union. Evidence introduced at the hearing indicates that the employees claimed by the Union are closely related from a functional standpoint and form a homogeneous group.

The Company employs two persons classified by it as working foremen. Each of them has seven or eight employees under him and can effectively recommend the hire and discharge of his subordinates. We find that the working foremen are supervisory employees and as such are hereinafter excluded from the unit.

¹ The Field Examiner reported that the Union presented 15 authorization cards bearing apparently genuine signatures of persons whose names appear on the Company's pay roll of September 3, 1943. There are approximately 19 employees in the appropriate unit.

We find that all employees of the Company engaged as maintenance painters, excluding clerical employees, working 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 Lone Star Defense Corporation, Texarkana, Texas, 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 Sixteenth 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 Brotherhood of Painters, Decorators and Paperhangers of America, Local 459, affiliated with the American Federation of Labor, for the purposes of collective bargaining.

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