

In the Matter of HOPKINSVILLE MILLING Co. and FLOUR & FEED WORKERS #195, CANNERY AGRICULTURAL, PACKING & ALLIED WORKERS CIO

Case No. 14-R-780.—Decided October 19, 1943

Mr. H. W. Linton, of Hopkinsville, Ky., for the Company.

Mr. J. D. Cannon, of Louisville, Ky., for the Union.

Mr. Jack Mantel, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Flour & Feed Workers #195, Cannery, Agricultural, Packing & Allied Workers, CIO, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Hopkinsville Milling Co., Hopkinsville, Kentucky, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Harry G. Carlson, Trial Examiner. Said hearing was held at Hopkinsville, Kentucky, on October 1, 1943. The Company and the Union appeared and participated. 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 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

Hopkinsville Milling Co., a Kentucky corporation, operates two flour and feed mills in Hopkinsville, Kentucky, known as the Climax Mill and the Crescent Mill. During the calendar year 1942 the Company purchased raw materials consisting of wheat and corn, in excess of \$600,000, approximately 75 percent of which was shipped to it from

points outside the State of Kentucky. During the same period the Company's finished products, consisting of flour and feed totaled an approximate value in excess of \$600,000, approximately 75 percent of which was sold and shipped to points outside the State of Kentucky.

The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

Flour & Feed Workers #195, Cannery, Agricultural, Packing & Allied Workers, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

Early in September 1943, the Union, claiming to represent a majority of the employees at the Climax Mill and the Crescent Mill, requested the Company for recognition as exclusive bargaining representative of its employees. The Company refused such recognition until the Union has been certified by the Board.

A statement of the Trial Examiner, made at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter 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

The Union and the Company agree substantially and we find, that all employees at the Climax Mill and the Crescent Mill of the Company, excluding office workers, supervisory employees, and all 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 em-

¹ The Trial Examiner reported that the Union submitted 24 application-for-membership cards, all of which bore apparently genuine signatures; that the names of all persons appearing on the cards were listed on the Company's pay roll of September 9, 1943, which contained the names of 58 employees in the appropriate unit; that 20 of the cards were dated from August 4, 1943, to September 15, 1943; four of the cards were undated.

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 Hopkinsville Milling Co., Hopkinsville, Kentucky, 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 Fourteenth 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 or not they desire to be represented by Flour & Feed Workers #195, Cannery, Agricultural, Packing & Allied Workers, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.

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