

In the Matter of R. C. OWEN, R. C. OWEN, JR., and ROY OWEN, DOING BUSINESS AS R. C. OWEN COMPANY and INTERNATIONAL WOODWORKERS OF AMERICA (CIO)

*Case No. 14-R-757.—Decided October 25, 1943*

*Mr. Roy Owen, of Hopkinsville, Ky., for the Company.*

*Mr. Joseph D. Cannon, of Louisville, Ky., and Messrs. Robert Pollock and Everett Huckleby, both of Hopkinsville, Ky., for the Union.*

*Mr. David V. Easton, of counsel to the Board.*

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon the petition filed by International Woodworkers of America (CIO), herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of R. C. Owen, R. C. Owen, Jr., and Roy Owen, doing business as R. C. Owen Company, 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, 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

R. C. Owen, R. C. Owen, Jr., and Roy Owen constitute a copartnership doing business as R. C. Owen Company. The Company operates a lumber manufacturing business located at Hopkinsville, Kentucky, 53 N. L. R. B., No. 12.

and three small portable sawmills which operate within a radius of 50 miles from the Company's operations at Hopkinsville, Kentucky. The raw materials used by the Company during the year 1942 exceeded \$100,000 in value, of which 10 percent came from points outside the State of Kentucky. Finished products of the Company consisting of lumber, mouldings, and flooring, valued in excess of \$150,000, were sold during the same period. Over 70 percent thereof was 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

International Woodworkers of America is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to recognize the Union as the exclusive bargaining representative of its employees until the Union has been certified by the Board as the representative of these employees in an appropriate unit.

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

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 contends that a unit consisting of all employees of the Company, excluding truck drivers, the employees of the three portable sawmills operated by the Company, the timber crews, office employees, and all supervisory employees with authority to hire and discharge or effectively recommend such action, constitutes an appropriate unit. The Company contends that the proper unit should include all employees of the Company, with the exception of office employees and supervisors.

The Company's operations consist of its milling activities situated in the vicinity of Hopkinsville, and in the operation of its three portable sawmills which have no permanent location but which operate

<sup>1</sup>The Trial Examiner reported that the Union submitted 68 authorization cards, of which 57 bear apparently genuine original signatures of persons whose names appear on the Company's pay roll for the week ending September 16, 1943. This pay roll contained a total of 83 names in the unit hereinafter found appropriate.

within a radius of 50 miles from Hopkinsville. The employees at these sawmills, together with the timber crews, work at various distances within this radius, and many of them live approximately 30 miles from Hopkinsville. The truck drivers spend the major portion of their time away from the Hopkinsville plant, hauling logs to the portable sawmills, and timber from the latter to the Hopkinsville plant. While the present acute labor shortage has made it necessary for the Company to effect some interchange between the employees at the Hopkinsville plant and those working in either the portable sawmills or in the timber crews, normally there is little, if any, such interchange.

The Union has made no effort to organize any of the employees of the Company other than those located at the Hopkinsville plant. This together with the fact that the employees engaged at the sawmills and in the timber crews are located at a considerable distance from the Hopkinsville plant and have, thus far, evinced no apparent interest in collective bargaining, convinces us that these employees should be excluded from the unit.

We find, therefore, that all employees of the Company engaged at its Hopkinsville plant, excluding truck drivers, employees engaged at the portable sawmills, timber crews, office employees, 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.<sup>2</sup>

#### 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 payroll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.<sup>3</sup>

#### 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

<sup>2</sup> See *Matter of Pacific Lumber Company*, 51 N. L. R. B. 407; *Matter of Dierks Lumber Company*, 52 N. L. R. B. 531; *Matter of Buckley Hemlock Mills*, 15 N. L. R. B. 492, 502.

<sup>3</sup> The Union requested that its name appear on the ballot as "International Woodworkers of America, Local 376, CIO." This request is hereby granted.

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with R. C. Owen, R. C. Owen, Jr., and Roy Owen, doing business as R. C. Owen Company, 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 International Woodworkers of America, Local 376, CIO, for the purposes of collective bargaining.

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