

In the Matter of KENNEDY CAR-LINER AND BAG COMPANY, INC. and LOCAL 323, INTERNATIONAL BROTHERHOOD OF PULP, SULPHITE AND PAPER MILL WORKERS, A. F. OF L.

*Case No. 9-R-1197.—Decided October 25, 1943*

*Mr. Wilbur F. Pell*, of Shelbyville, Ind., for the Company.  
*Mr. Edward A. Mangan*, of Shelbyville Ind., for the Union.  
*Mr. Joseph W. Kulkis*, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Local 323, International Brotherhood of Pulp, Sulphite and Paper Mill Workers, A. F. of L., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Kennedy Car-Liner and Bag Company, Inc., herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before William I. Shooer, Trial Examiner. Said hearing was held at Shelbyville, Indiana, on October 8, 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

Kennedy Car-Liner and Bag Company, Inc., is an Indiana corporation operating plants in Shelbyville, Indiana, at which it is engaged in the manufacture of paper and plastic products. During the period of January 1, 1943, to June 30, 1943, the Company purchased materials

in excess of \$1,000,000 and had sales in excess of \$1,000,000. Of the materials purchased approximately 95 percent was purchased outside the State of Indiana and shipped to the plants of the Company at Shelbyville, Indiana. Approximately 80 percent of the finished products was shipped by the Company to points outside the State of Indiana. Only the Company's Plants Nos. 1, 4, and 5 are involved in this proceeding.

## II. THE ORGANIZATION INVOLVED

Local 323, International Brotherhood of Pulp, Sulphite and Paper Mill Workers, affiliated with the American Federation of Labor, is a labor organization, admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the Union as the exclusive bargaining representative of its employees unless and until the union has been certified by the Board in an appropriate unit.

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 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

We find, in accordance with the agreement of the parties, that all production and maintenance employees in Plants Nos. 1, 4, and 5, Shelbyville, Indiana, but excluding all clerical workers, plant-protection guards, and all employees having 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>1</sup>The Field Examiner reported that the Union submitted 153 authorization cards bearing apparently genuine original signatures; that the names of 153 persons appearing on the cards were listed on the Company's pay roll of September 4, 1943, which contained the names of 484 employees in the appropriate unit.

Subsequent to the hearing, the Company, for the purpose of attacking the validity of the statement of the Field Examiner and permitting it to inspect and cross-examine with respect to certain union membership cards, filed a petition and a brief in support thereof requesting (1) leave to adduce additional evidence and (2) issuance of a *subpoena duces tecum*, which had previously been denied by both the Acting Regional Director and the Trial Examiner. The petition is hereby denied. See *Matter of Atlas Powder Company*, 43 N. L. R. B. 757; *Matter of Hill Stores, Inc.*, 39 N. L. R. B. 874.

## 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 an 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 Kennedy Car-Liner and Bag Company, Inc., Shelbyville, Indiana, 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 Ninth 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 local 323, International Brotherhood of Pulp, Sulphite and Paper Mill Workers, 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.