

In the Matter of PITTSBURGH COKE & IRON COMPANY and UNITED CONSTRUCTION WORKERS, DIVISION OF DISTRICT 50, UNITED MINE WORKERS OF AMERICA

Case No. 6-R-784.—Decided October 25, 1943

Mr. John M. Wilson, of Pittsburgh, Pa., for the Company.

Mr. Peter Ferrara, of Indiana, Pa., Mr. Luke Brett, of Pittsburgh, Pa., Mr. Albert Lee Slagle, Mr. Robert Leasure, and Mr. Jesse Johns, of Templeton, Pa., for the Union.

Mr. William C. Baisinger, Jr., of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

Upon petition duly filed by United Construction Workers, Division of District 50, United Mine Workers of America, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Pittsburgh Coke & Iron Company, at Templeton, Pennsylvania, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before S. Craig Carnes, Trial Examiner. Said hearing was held at Pittsburgh, Pennsylvania, on September 24, 1943. The Company and the Union appeared and participated.¹ All parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, to introduce evidence bearing upon the issues, and to file briefs with the Board. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

¹ A waiver signed by the Union and introduced into evidence at the hearing states that the Union waived the right to protest any election held as a result of this proceeding on the basis of unfair labor charges filed by it in Case No. 6-C-859.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Pittsburgh Coke & Iron Company, a Pennsylvania corporation, operates plants at Iron River, Michigan, Sharpville, Templeton, Chester, Carnegie, and Neville Island (Pittsburgh), Pennsylvania. This proceeding involves only the plant at Templeton, Pennsylvania, herein called the Templeton mine, at which the Company is engaged in mining limestone. During the past 12 months the Company has purchased operating supplies and repair materials valued at approximately \$100,000, all of which was purchased within the Commonwealth of Pennsylvania. During the same period, the Company mined and shipped from its Templeton mine limestone valued at approximately \$275,000, 90 percent of which was shipped to the Company's plant at Neville Island, Pennsylvania, where it was used in the manufacture of pig iron, coke, coke oven byproducts, cement, and activated charcoal valued in excess of \$10,000,000, of which approximately 25 percent was shipped to points outside the Commonwealth of Pennsylvania. The Templeton mine is an integral part of the operations of the Company's Neville Island plants.² For the purpose of this proceeding, the Company admits that at its Templeton mine it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

United Construction Workers, Division of District 50, United Mine Workers of America, is a labor organization, admitting to membership employees of the Company.

III. THE ALLEGED QUESTION CONCERNING REPRESENTATION

The Union seeks a unit comprised of all production and maintenance employees employed at the Company's Templeton mine, excluding office and clerical employees, technical employees, executives, 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. At the date of the hearing the Company's Templeton mine was not in operation and, according to the Company's personnel director, it was contemplated that it would remain shut down for an indefinite period of time. At the hearing the

² In *Matter of Pittsburgh Coke & Iron Company*, 51 N. L. R. B. 56, the Company stipulated and the Board found that at its Neville Island plant the Company was engaged in commerce within the meaning of the Act.

Union contended that in view of this fact an election should not be conducted until the mine had resumed operation and that the August 6, 1943 pay roll should be used in determining the eligibility of employees to vote since it was the last pay-roll date before the cessation of operations.³ The Company requests that any election be postponed until the Templeton mine is reopened and argues that inasmuch as the pay roll of August 6, 1943, might contain names of persons who will not return to work when the mine resumes operations, the eligibility date should be the date of the first full pay roll after the mine reopens in the event the Board orders an election. Since the Templeton mine has ceased operating, we are of the opinion that it will serve no useful purpose to order an election at the present time. Nor do we find it now expedient to order an election to be conducted sometime in the future, since the record fails to disclose when the mine will resume operations, if at all.⁴

Accordingly, we find that no question has arisen concerning the representation of employees of the Company, within the meaning of Section 9 (c) of the National Labor Relations Act. We shall dismiss the petition without prejudice to refileing at a time which will make possible an election subsequent to the resumption of operations at the Company's Templeton mine.

ORDER

Upon the basis of the foregoing findings of fact, the National Labor Relations Board hereby orders that the petition for investigation and certification of representatives of employees of Pittsburgh Coke & Iron Company at Templeton, Pennsylvania, filed by United Construction Workers, Division of District 50, United Mine Workers of America, be, and it hereby is, dismissed.

Mr. GERARD D. REILLY took no part in the consideration of the above Decision and Order.

³ Subsequent to the hearing, the Union filed with the Board a written statement revoking its position, as asserted at the hearing, with respect to the date on which an election should be held and requesting the Board to order an immediate election.

⁴ See *Matter of Maine Food Processors*, 49 N. L. R. B. 1181.