

In the Matter of A. RUSSO & Co. and UNITED BAKERY & CONFECTIONERY WORKERS UNION, LOCAL 15, OF THE U. R. W. & D. S. E. A., CIO

Case No. 13-R-2018.—Decided October 29, 1943

Tannenbaum, Polikoff & Schmidt, by *Mr. John B. Schmidt*, of Chicago, Ill., for the Company.

Caroline S. Muller and *Sandra G. Slotkin*, of Chicago, Ill., 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 United Bakery & Confectionery Workers Union, Local 15, of the U. R. W. & D. S. E. A., CIO, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of A. Russo & Co., Chicago, Illinois, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Robert T. Drake, Trial Examiner. Said hearing was held at Chicago, Illinois, on October 19, 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

A. Russo & Co. is an Illinois corporation with its principal place of business at Chicago, Illinois, where it is engaged in the manufac-

ture and sale of macaroni and noodles. During the 9-month period ending October 1, 1943, the Company purchased materials valued at about \$180,000, approximately 80 percent of which was shipped to it from points outside the State of Illinois. During the same period the Company produced products valued at about \$270,000, approximately 10 percent of which was shipped to points outside the State of Illinois. We find, contrary to the contentions of the Company, that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

United Bakery & Confectionery Workers Union, Local 15, of the U. R. W. & D. S. E. A., is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On August 26, 1943, the Union requested the Company to recognize it as the exclusive collective bargaining representative of the Company's employees. The Company refused this request.

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 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 Act.

IV. THE APPROPRIATE UNIT

The Union urges that all production and maintenance employees of the Company, excluding foremen, the watchman, truck drivers, the shipping clerk, clerical employees, and working foreladies, constitute an appropriate unit. The only controversy with respect to the unit concerns working foreladies.

Lena Santarelli and May Vainisi are classified by the Company as packers, but the Union claims that they are working foreladies. The Union would exclude them from the unit and the Company would include them. It appears that such employees lay out the work for from 15 to 25 packers and route the work coming into and out of the packing room. In June 1943, Vainisi discharged one of the packers for insubordination. The record is clear that Vainisi and Santarelli

¹The Trial Examiner reported that the Union presented 36 membership application cards bearing apparently genuine signatures of persons whose names appear on the Company's pay roll of October 18, 1943. There are approximately 48 employees in the appropriate unit

perform the same duties. Under the circumstances, we shall exclude them from the unit.

We find that all production and maintenance employees of the Company, excluding the watchman, truck drivers, the shipping clerk, clerical employees, foremen, foreladies (Lena Santarelli and May Vainisi), 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 A. Russo & Co., Chicago, Illinois, 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 Thirteenth 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 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 United Bakery & Confectionery Workers Union, Local 15, of the U. R. W. & D. S. E. A., CIO, for the purposes of collective bargaining.