

In the Matter of BARD PARKER COMPANY, INC. and UNITED PAPER,
NOVELTY AND TOY WORKERS INTERNATIONAL UNION, C. I. O.

Case No. 2-R-4255.—Decided November 1, 1943

Mr. J. S. Whiteside, Jr., of New Haven, Conn., and *Mr. J. H. White*, of Danbury, Conn., for the Company.

Mr. J. G. Maurillo, of New York City, and *Mr. Carl Remano*, of New Haven, Conn., 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 United Paper, Novelty and Toy Workers International Union, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Bard Parker Company, Inc., Danbury, Connecticut, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Jack Davis, Trial Examiner. Said hearing was held at Danbury, Connecticut, on October 13, 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

Bard Parker Company, Inc., a New York corporation, is engaged in the manufacture, sale, and distribution of knives, scalpels, and anti-aircraft parts at its plant at Danbury, Connecticut. During the year 1942, raw materials, consisting of steel and kindred products, in excess

53 N. L. R. B., No. 59.

of \$10,000 in value, were used to manufacture the Company's product. All of these raw materials were shipped to the Company's plant from points outside the State of Connecticut. For the same period, the Company manufactured, sold, and distributed its finished products in excess of \$1,500,000 in value. Approximately 90 percent of these finished products was shipped to points outside the State of Connecticut. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

United Paper, Novelty and Toy Workers International Union, affiliated with the Congress of Industrial Organizations, 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, until the Union has been certified by the Board in an appropriate unit.

A statement of the Regional Director, introduced into evidence 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 Company and the Union substantially agreed that all production and maintenance employees, exclusive of superintendent, foremen, assistant foremen, foreladies, clerical employees (both shop and office), nurses, guards, and inspectors, constitute an appropriate unit.

The parties are in dispute, however, as to the inclusion of four watchmen. The Company contends that the watchmen should be excluded from the appropriate unit on the ground that they are not maintenance employees. The Union requests that they be included on the ground that the watchmen are eligible to membership in the Union, that their problems are the same as those of other production and maintenance employees in the plant, and that watchmen have been included in collective bargaining contracts which the Union has

¹ The Regional Director reported that the Union submitted 151 authorization cards, 87 of which bore apparently genuine signatures, 11 of which bore printed names; that the names of 98 persons appearing on the cards were listed on the Company's pay roll of October 3, 1943, which contained the names of 293 employees in the appropriate unit; that 90 of the cards were dated from May 1943 to September 1943; 8 of the cards were undated.

entered into with other companies. Watchmen are paid on an hourly basis, as are the production and maintenance employees. They are not armed or uniformed, and neither militarized nor deputized as auxiliary police. We are of the opinion, under all the circumstances of this case, that the watchmen have interests in common with the production and maintenance employees and shall therefore include them in the same unit.

We find that all production and maintenance employees, including watchmen, but excluding the superintendent, foremen, assistant foremen, foreladies, clerical employees (both shop and office), nurses, guards, and inspectors 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 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.

From September 15, 1943, the date of the filing of the Union's petition, to the date of the hearing, the Company temporarily laid off 29 production and maintenance employees, who have been placed on a preferential reinstatement list. The Company contended that these employees should be eligible to vote only in the event that they have not obtained other employment. The Union is not in accord with the Company's position in this regard. We see no reason to depart from our usual practice, and accordingly, we find that the employees temporarily laid off shall be eligible to vote.

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 Bard Parker Company, Inc., Danbury, Connecticut, 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 super-

vision of the Regional Director for the Second 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 United Paper, Novelty and Toy Workers International Union, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.