

In the Matter of EPPINGER & RUSSELL Co. and FLORIDA CITRUS & ALLIED
WORKERS UNION, LOCAL 4A, UCAPAWA, C. I. O.

Case No. 10-R-1028.—Decided November 11, 1943

Mr. Philip S. May, of Jacksonville, Fla., for the Company.

Miss Anne Matthews, of Jacksonville, Fla., for the Union.

Mr. A. Sumner Lawrence, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon an amended petition duly filed by Florida Citrus & Allied Workers Union, Local 4A, UCAPAWA, C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Eppinger & Russell Co., Jacksonville, Florida, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Mortimer H. Freeman, Trial Examiner. Said hearing was held at Jacksonville, Florida, on October 25, 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.¹ 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

Eppinger & Russell Co., a new York corporation with its principal office in New York City, is engaged in the business of treating lumber

¹ In addition to the parties appearing at the hearing, notice of the hearing was served upon International Union of Operating Engineers, Local 873, which organization failed to enter an appearance or to participate in the hearing.

and forest products with chemical preservatives. In the course of its business the Company operates plants in Long Island City, New York, Norfolk, Virginia, and Jacksonville, Florida, the last mentioned plant being the one involved in this proceeding. During the past 12 months, the Company purchased for use at its Jacksonville plant, raw materials, chemicals, and other ingredients, exceeding \$2,000,000 in value, of which more than 51 percent was obtained from points outside the State of Florida. During the same period, the Company shipped approximately 50 percent of its finished products to points outside the State of Florida.

The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

Florida Citrus & Allied Workers Union, Local 4A, United Cannery Agricultural Packing & Allied Workers 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

On or about September 20, 1943, the Union requested in writing that the Company recognize it as the exclusive bargaining representative of the Company's employees at its Jacksonville plant. The Company declined to grant the request of the Union until certified by the Board.²

A statement of a Field Examiner for the Board, introduced in evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found appropriate.³

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, substantially in accordance with the agreement of the parties, that all production and maintenance employees of the Company,

² The Company's reluctance to grant the Union's request for recognition was due to the fact that the Company had for several years a contract with the International Union of Operating Engineers, covering the employees in the Jacksonville plant. The Company did not, however, contend that the contract, which apparently had been abandoned without enforcement by either side for a considerable period of time, was a bar to the present proceeding.

³ The Field Examiner reported that the Union had submitted 118 designations, of which 102, dated in September and October 1943 including 25 undated, bore the apparently genuine original signatures of persons whose names appear on the Company's pay roll of September 30, 1943, containing 211 names within the claimed appropriate unit.

employed at its Jacksonville, Florida, plant, excluding foremen, clerical workers, watchmen, 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.

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 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 Eppinger & Russell Co., Jacksonville, Florida, 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 Tenth 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 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 Florida Citrus & Allied Workers Union, Local 4A, UCAPAWA, C. I. O. for the purposes of collective bargaining.