

In the Matter of ARMOUR AND COMPANY and UNITED PACKINGHOUSE
WORKERS OF AMERICA, LOCAL 112, C. I. O.

Case No. 2-R-4280.—Decided November 23, 1943

Mr. Vincent M. Rotolo, for the Board.

Mr. Peter F. Curran, of New York City, for the Company.

Mr. Ray Hobbs, of New York City, 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 Packinghouse Workers of America, Local 112, C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Armour and Company, Jersey City, New Jersey, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before William F. Guffey, Jr., Trial Examiner. Said hearing was held at Jersey City, New Jersey, on November 8, 1943. The Board, 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

Armour and Company is a Delaware corporation with its principal office at Chicago, Illinois. We are here concerned with its plants at Jersey City, New Jersey. During the 6-month period ending October 31, 1943, the Company received over 25,000,000 pounds of live animals and supplies at its Jersey City slaughtering plant, about 90 percent of

which was shipped to it from outside the State of New Jersey. During the same period the Company shipped over 25,000,000 pounds of products from its Jersey City slaughtering plant, 5 percent of which was shipped to points outside the State of New Jersey. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

United Packinghouse Workers of America, Local 112, is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

During September 1943 the Union requested the Company to recognize it as exclusive collective bargaining representative of the truck drivers at Jersey City. The Company refused this request.

A statement of the Trial Examiner, introduced into evidence 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 truck drivers of the Company at Jersey City, excluding all other employees, constitute an appropriate unit. The Company took no position with respect to the unit.

The Company has two truck drivers who spend all of their time delivering merchandise to customers of the Company and a third truck driver who drives a trailer to transport goods between the Company's two Jersey City plants. In addition, the Union would include Russo in the unit. It appears that Russo is regularly employed as a laborer in a shipping department but on occasion relieves the two aforementioned truck drivers. Russo spends between 10 to 15 percent of his time performing relief truck driving. He is carried on the shipping department pay roll and works under the direct supervision of the shipping clerk. The Company construes the contract between the parties covering production and maintenance employees as including Russo. We accordingly, find that Russo should be excluded from the unit. The record indicates that the remaining three employees constitute a homogeneous group.

¹ The Trial Examiner reported that the Union submitted three membership application cards bearing apparently genuine signatures of persons whose names appear on the November 8, 1943, pay roll of the Company. There are three employees in the appropriate unit.

We find that the truck drivers employed by the Company at Jersey City, excluding Russo, salesmen-drivers, 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 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 Armour and Company, Jersey City, New Jersey, 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 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 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 Packinghouse Workers of America, Local 112, C. I. O., for the purpose of collective bargaining.