

In the Matter of ARMOUR FERTILIZER WORKS, DIVISION OF ARMOUR AND COMPANY and FLORIDA CITRUS & ALLIED WORKERS UNION, LOCAL No. 4A, UCAPAWA, CIO

*Case No. 10-R-1027.—Decided November 23, 1943*

*Messrs. Charles J. Rehero and E. C. Johnson, of Jacksonville, Fla., for the Company.*

*Miss Anne Mathews, of Jacksonville, Fla., for the Union.*

*Miss Olive N. Barton, of counsel to the Board.*

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by Florida Citrus & Allied Workers Union, Local No. 4A, UCAPAWA, CIO, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Armour Fertilizer Works, Division of Armour and Company, Jacksonville, Florida, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Erwin C. Catts, Trial Examiner. Said hearing was held at Jacksonville, Florida, on October 15, 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

Armour and Company is an Illinois corporation, with a principal office in Atlanta, Georgia. It is engaged, among other activities, in the operation of a complete fertilizer plant at Jacksonville, Florida. There

was shipped to the plant during the fiscal year ending July 1, 1943, approximately 71,000 tons of fertilizer materials, 27,000 tons of which were shipped from points outside the State of Florida. During the same period approximately 94,500 tons of commercial fertilizers and bulk superphosphate were shipped from the plant; of this 4.4 percent was shipped to points outside the State of Florida.

We find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.

## II. THE ORGANIZATION INVOLVED

Florida Citrus & Allied Workers Union, Local No. 4A, United Cannery, Agricultural, Packing, and 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, claiming to represent a majority, requested the Company to recognize it as the exclusive bargaining agent for the production and maintenance employees at its plant. The Company refused to accord the Union such recognition, pending certification by the Board.

A statement of the Field Examiner introduced in evidence at the hearing, indicates that the Union represents a substantial number of employees within the unit hereinafter found appropriate.<sup>1</sup>

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 are substantially agreed upon an appropriate unit consisting of production and maintenance workers. The only question is as to the two helpers and one sampler attached to the chemical laboratory. The helpers and the sampler, respectively, are supervised by a chemist, who performs analyses in the laboratory, and a "chemical control man" who works in the production area of the plant. The Company maintains that these three employees should be excluded from the unit, since the laboratory is not essential to production and maintenance. The Union contends, however, that they should be included in the unit since their work is closely associated with production. The helpers spend most of their time in the lab-

<sup>1</sup>The Field Examiner reported that the Union submitted 57 application-for-membership cards, of which 49 bear apparently genuine original signatures corresponding with the names on the Company's pay roll of September 30, 1943, which pay roll contains the names of 94 persons in the appropriate unit. Ten of the cards are undated, and 39 are dated in September, 1943.

oratory preparing samples for tests, assisting in the routine testing and when necessary going into the yard to obtain samples. The sampler's work is similar; he spends a part of his time outside the laboratory, securing samples of the incoming raw materials and of the outgoing finished product. He takes these to the laboratory and in some cases prepares them for testing. He does not assist in testing. If not busy otherwise, he spends up to 5 percent of his time in the slack season in ordinary production work. It is the Company's policy to employ as helpers and samplers only high school graduates who can read and write well. However, the samplers are paid when first employed, the same wages as common laborers. Since these employees are not professional employees, we see no reason to exclude them from the unit.<sup>2</sup>

In accordance with the foregoing and the agreement of the parties, we find that all production and maintenance employees of the Company at the plant, including the helpers and the sampler in the chemical laboratory, but excluding clerical workers, watchmen, foremen, and all 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.

#### 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 Fertilizer Works, Division of Armour and Company, 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

<sup>2</sup> *Matter of Brown Company*, 31 N. L. R. B. 303, 310; *Matter of Silverstein & Pinsof, Inc.*, 40 N. L. R. B. 638, 641.

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 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 Florida Citrus & Allied Workers Union, Local No. 4A, United Cannery, Agricultural, Packing and Allied Workers of America affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.