

In the Matter of ARMOUR FERTILIZER WORKS, DIVISION OF ARMOUR & COMPANY and UNITED GAS, COKE AND CHEMICAL WORKERS OF AMERICA, C. I. O.

Case No. 5-R-1388.—Decided November 23, 1943

Mr. Charles J. Rehero, of Jacksonville, Fla., for the Company, ;
Mr. C. W. Danenburg, of Greensboro, N. C., for the Union. .
Mr. Louis Cokin, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition and amended petition duly filed by United Gas, Coke and Chemical Workers of America, C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Armour Fertilizer Works, Division of Armour & Company, Greensboro, North Carolina, herein called the Company, the National Labor Relations Board, provided for an appropriate hearing upon due notice before Robert A. Levett, Trial Examiner. Said hearing was held at Greensboro, North Carolina, on November 6, 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 Fertilizer Works, Division of Armour & Company, is an Illinois corporation operating a plant at Greensboro, North Carolina, where it is engaged in the operation of a fertilizer plant. During its fiscal year ending July 1, 1943, the Company used approximately

52,500 tons of raw materials at its Greensboro plant, approximately 90 percent of which was shipped to it from points outside the State of North Carolina. During the same period the Company produced about 63,100 tons of superphosphate and fertilizer at its Greensboro plant, all of which was shipped to points within the State of North Carolina. We find, contrary to the Company's contentions, that it is engaged in commerce within the meaning of the National Labor Relations Act at its Greensboro plant.

II. THE ORGANIZATION INVOLVED

United Gas, Coke and Chemical 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 September 1, 1943, the Union requested the Company to recognize it as exclusive collective bargaining representative of the employees at the Greensboro plant. The Company refused this request.

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 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

We find, in substantial agreement with the parties, that all production employees at the Greensboro plant of the Company, including messenger boys, watchmen,² and weighers, but excluding clerical employees, factory clerks, timekeepers, sales department employees, 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

¹The Regional Director reported that the Union submitted 48 authorization cards bearing apparently genuine signatures. No check was made of the cards against a pay roll because of the Company's refusal to submit a list of its employees. There are approximately 100 employees in the appropriate unit.

²The watchmen are not militarized.

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 Fertilizer Works, Division of Armour & Company, Greensboro, North Carolina, 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 Fifth 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 Gas, Coke and Chemical Workers of America, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.