

In the Matter of KERN COUNTY DEHYDRATING Co. and TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS, LOCAL No. 87, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA, A. F. OF L.

Case No. 21-R-2100.—Decided November 29, 1943

Mr. T. H. Werdel, of Bakersfield, Calif., *Mr. Robert Franklin*, of Fresno, Calif., and *Mr. E. H. Rawl*, of Bakersfield, Calif., for the Company.

Mr. James F. Galliano, of Oakland, Calif., 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 Teamsters, Chauffeurs, Warehousemen & Helpers, Local No. 87, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, A. F. of L., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Kern County Dehydrating Co., Bakersfield, California, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before William B. Esterman, Trial Examiner. Said hearing was held at Bakersfield, California, on November 8, 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

Kern County Dehydrating Co. is a California corporation with its principal place of business at Bakersfield, California, where it is

53 N. L. R. B., No. 177.

engaged in dehydrating vegetables. From June to November 1943, the Company purchased potatoes valued at about \$250,000, over 27 percent of which was shipped to it from points outside the State of California. During the same period the Company purchased machinery valued at about \$36,000, over 40 percent of which was shipped to it from points outside the State of California. The Company's entire output is delivered to the United States Government at Bakersfield, California, for distribution by various Federal agencies. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

Teamsters, Chauffeurs, Warehousemen & Helpers, Local No. 87, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company refuses to recognize the Union as the exclusive collective bargaining representative of its employees until such time as the Union is certified by the Board.

A statement of a Field Examiner of the Board, 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 a stipulation of the parties, that all hourly paid production and maintenance employees at the dehydrating plant of the Company at Bakersfield, California, including monthly paid carpenters, mechanics, and boiler operators, but excluding guards, monthly paid employees not specifically included, shift foremen, superintendents, assistant superintendents, warehouse foremen, 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.

¹ The Field Examiner reported that the Union submitted 129 application-for-membership cards bearing apparently genuine signatures of persons whose names appear on the October 28, 1943, pay roll of the Company. There are 422 employees in the appropriate unit.

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.

During the first week of November 1943, the Company laid off approximately 120 employees, due to the necessity for major changes in its operations requiring tests and technical investigations. The Company stated that it intended to resume operations with its full complement of employees within a few weeks after the hearing and that all of its laid-off employees will be offered employment. Under these circumstances, we find that the employees laid off because of the change in operations are only temporarily laid off and have an interest in the election, and are therefore 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 3, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Kern County Dehydrating Co., Bakersfield, California, 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 Twenty-first 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 who have not been rehired or reinstated prior to the date of the election, to determine whether or not they desire to be represented by Teamsters, Chauffeurs, Warehousemen & Helpers, Local No. 87, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, A. F. of L., for the purposes of collective bargaining.