

In the Matter of COLUMBUS RENDERING COMPANY *and* LOCAL UNION 346, AMALGAMATED MEAT CUTTERS & BUTCHER WORKMEN OF NORTH AMERICA, A. F. OF L.

Case No. 9-R-1226.—Decided December 11, 1943

Mr. Walter R. Snider, of Columbus, Ohio, for the Company.
Mr. Sam Pollock, of Columbus, Ohio, for the Amalgamated.
Mr. Daniel E. Bevis, of Columbus, Ohio, for the Independent.
Mr. Henry Wilhelm, of Columbus, Ohio, for the Firemen.
Mr. Louis Cokin, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by Local Union 346, Amalgamated Meat Cutters & Butcher Workmen of North America, A. F. of L., herein called the Amalgamated, alleging that a question affecting commerce had arisen concerning the representation of employees of Columbus Rendering Company, Columbus, Ohio, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Thomas E. Shroyer, Trial Examiner. Said hearing was held at Columbus, Ohio, on November 16, 1943. At the commencement of the hearing, the Trial Examiner granted motions of International Brotherhood of Firemen and Oilers, A. F. of L., herein called the Firemen, and United Rendering Workers, herein called the Independent, to intervene. The Company, the Amalgamated, the Firemen, and the Independent appeared at and participated in the hearing and all parties 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:

53 N. L. R. B., No. 233.

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Columbus Rendering Company is an Ohio corporation engaged in the collection and salvage of fats and bones at Columbus, Ohio. The Company purchases 10 percent of its raw materials from points outside the State of Ohio. The Company sells products valued in excess of \$1,000,000, annually, approximately 40 percent of which is shipped to points outside the State of Ohio. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

International Brotherhood of Firemen and Oilers and Local Union 346, Amalgamated Meat Cutters & Butcher Workmen of North America, are labor organizations affiliated with the American Federation of Labor, admitting to membership employees of the Company.

United Rendering Workers is an unaffiliated labor organization, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On September 22, 1943, the Amalgamated requested recognition of the Company as exclusive collective bargaining representative of the Company's employees. The Company refused this request.

On November 3, 1941, the Company and the Independent entered into an exclusive collective bargaining contract. The contract provides that it shall remain in effect until November 3, 1943. The contract does not contain a renewal clause. On November 3, 1943, the Independent and the Company entered into a new contract. Inasmuch as the contract of November 3, 1941, expired by its terms on November 3, 1943, and the new contract of that date was entered into after the Amalgamated's claim of September 22, 1943, we find that neither contract constitutes a bar to a determination of representatives at this time.

A statement of a Field Examiner of the Board, introduced into evidence at the hearing, indicates that the Amalgamated represents a substantial number of the 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.

¹ The Field Examiner reported that the Amalgamated presented 20 membership application cards bearing apparently genuine signatures of persons whose names appear on the Company's pay roll of November 1943. The Independent did not present any evidence of membership, but relies upon its contract as evidence of its interest in the instant proceeding.

IV. THE APPROPRIATE UNIT

The Amalgamated urges that all employees of the Company, excluding supervisory and clerical employees, pick-up station employees and powerhouse employees, constitute an appropriate unit. The Company and the Independent would include the pick-up station and powerhouse employees in the unit, while the Firemen contends that the powerhouse employees should constitute a separate unit.

The Company maintains three pick-up stations in Ohio and one in West Virginia. The employees at the pick-up stations drive trucks collecting fats and bones and bring them back to the station where they are picked up once a week by employees from the Columbus plant of the Company. The pick-up station employees perform the same type of work as the truck drivers working out of Columbus and they are paid substantially the same amount. These employees were covered by the contract between the Independent and the Company. Under all the circumstances, we find that the pick-up station employees should be included in the unit.

The Company employs four powerhouse employees. As stated above, the Firemen urges that they be excluded from the unit on the ground that they are eligible to membership in it. The Firemen does not want an election among such employees at this time and is not conducting an organizational campaign among them. The powerhouse employees were covered by the contract between the Independent and the Company. We shall include the powerhouse employees in the unit.

We find that all employees of the Company, including pick-up station and powerhouse employees, but excluding clerical 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 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.

There seems to be some dispute with respect to the eligibility of Clyde Crabtree. Crabtree transmits orders to four or five employees in his department and receives but 1 to 2 cents more per hour in pay

than his subordinates. The record indicates that Crabtree has no authority to effectively recommend changes in the status of any other employees. Accordingly, we find that Crabtree is not a supervisory employee and is eligible to vote in the election.

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 Columbus Rendering Company, Columbus, Ohio, 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 Ninth 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 they desire to be represented by Local Union 346, Amalgamated Meat Cutters & Butcher Workmen of North America, affiliated with the American Federation of Labor, or by United Rendering Workers, for the purposes of collective bargaining, or by neither.

MR. GERARD D. REILLY took no part in the consideration of the above Decision and Direction of Election.