

In the Matter of ZANESVILLE STONWARE COMPANY and INTERNATIONAL
UNION OF OPERATING ENGINEERS #567 (AFL)

Case No. 8-R-1284.—Decided December 20, 1943

Messrs. C. J. Crossland and M. H. Linn, of Zanesville, Ohio, for the
Company.

Mr. John Possehl, of Akron, Ohio, and Mr. Waldo E. Johnston, of
Zanesville, Ohio, for the Union.

Miss Melvern R. Krelow, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

Upon petition duly filed by International Union of Operating Engineers #567 (AFL), herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Zanesville Stoneware Company, Zanesville, Ohio, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before William O. Murdock, Trial Examiner. Said hearing was held at Zanesville, Ohio, on October 27, 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

Zanesville Stoneware Company is an Ohio corporation, having its principal place of business located in Zanesville, Ohio, where it is engaged in the manufacture of a clay product known as stoneware. The clay and other raw materials, such as glaze, coal, etc., exceed an annual value of \$10,000, practically all of which materials come from within the State of Ohio. The Company manufactures finished prod-

ucts valued in excess of \$50,000 annually, of which over 50 percent is shipped by the Company to points outside the State of Ohio.

II. THE LABOR ORGANIZATION INVOLVED

International Union of Operating Engineers #567 is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE ALLEGED APPROPRIATE UNIT; THE ALLEGED QUESTION CONCERNING REPRESENTATION

The Union contends that the power plant employees constitute an appropriate unit, and that there are two employees, Robert E. Bailey and Francis S. Archer, who comprise such unit. The Company contends that although Bailey is designated as an operating engineer, and might properly fall within the category of a power plant employee, Archer is a kiln burner and does not properly comprise part of the alleged unit. It further maintains that since the proposed unit would consist of only one eligible employee, it is not appropriate.

The record discloses that Archer is carried on the Company's kiln burner department pay roll and is classified as a "kiln burner." He receives the same rate of pay as do the three other kiln burners and works 7 days a week, whereas Bailey and the production employees work only 6 days a week. He engages in kiln burning work and plant watching and, although he is a licensed engineer, the only engineering duty he has is to make a fire in the furnace regularly every morning except Sunday, and on Sunday also when the weather is extremely cold. In the performance of such duty, he fills the stoker with coal, turns on the boiler pumps, and then returns to his kiln burning duties. The work performed by Bailey, the full-time engineer, amply takes care of all other necessary power operations; he starts the engine, keeps the stoker running, keeps the hopper full of coal, and lubricates the engine. Since it appears that Archer's principal duties are kiln burning and plant watching and that his engineering duties are merely incidental, we conclude that Archer does not properly comprise part of the alleged unit.

The Board has frequently held that the principle of collective bargaining presupposes that there is more than one eligible person who desires to bargain, and that the National Labor Relations Act therefore does not empower the Board to certify where only one employee is involved.¹ Bailey, therefore, cannot be considered as

¹ See *Matter of The Central Foundry Company*, 20 N. L. R. B. 131, and cases cited therein.

constituting an appropriate bargaining unit. Since the bargaining unit sought to be established by the petition is inappropriate, we find that no question has arisen concerning the representation of employees of the Company.

ORDER

Upon the basis of the foregoing findings of fact, the National Labor Relations Board hereby orders that the petition for investigation and certification of representatives of employees of Zanesville Stoneware Company, Zanesville, Ohio, filed by International Union of Operating Engineers #567 (AFL), be, and it hereby is, dismissed.

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