

In the Matter of GENERAL REFRACTORIES COMPANY and UNITED CONSTRUCTION WORKERS, DIVISION OF DISTRICT 50, UNITED MINE WORKERS OF AMERICA

*Case No. 6-R-814.—Decided January 6, 1944*

*Mr. C. Jewett Henry*, of Huntingdon, Pa., *Mr. P. M. Stufft*, of Mt. Union, Pa., and *Mr. E. G. Cowan*, of Claysburg, Pa., for the Company.

*Mr. Paul M. Nothorn*, of Huntingdon, Pa., *Mr. Allan L. Sayers*, of Mt. Union, Pa., and *Mr. Marlin L. Brennan*, of Williamstown, Pa., 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 United Construction Workers, Division of District 50, United Mine Workers of America, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of General Refractories Company, Philadelphia, Pennsylvania, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before James A. Shaw, Trial Examiner. Said hearing was held at Huntingdon, Pennsylvania, on November 30, 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

General Refractories Company is a Pennsylvania corporation engaged in quarrying or mining various raw materials used in the manu-

facture and sale of refractory products. We are here concerned with the Company's plant at Mt. Union, Pennsylvania, and its quarry known as the Old Woman's Gap Quarry. During the 12-month period preceding the date of the hearing, the Company purchased raw materials for use at its Mt. Union plant valued at about \$340,000, approximately 5 percent of which was shipped to it from points outside the State of Pennsylvania. During the same period the Company shipped products from its Mt. Union plant and the Old Woman's Gap Quarry valued at about \$1,000,000, approximately 37 percent of which was shipped to points outside the State of Pennsylvania.

## II. THE ORGANIZATION INVOLVED

United Construction Workers, Division of District 50, United Mine Workers of America, is a labor organization admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

On September 8, 1943, the Union requested the Company to recognize it as the exclusive collective bargaining representative of employees at the Mt. Union plant and Old Woman's Gap Quarry. The Company refused this request.

On July 30, 1943, a consent election was held among the employees of the Company involved herein, with only the Union on the ballot. A majority of the voters voted against the Union. The Company contends that no election should be held at this time, and that the petition should be dismissed because of the short period that has elapsed since the July 30, 1943, election. The record shows that the Union has obtained 58 new membership application cards since the July 30, 1943, election. We find the position taken by the Company to be untenable.<sup>1</sup>

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.<sup>2</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

We find, in agreement with a stipulation of the parties, that all employees of the Company at its Mt. Union plant and Old Woman's Gap Quarry, excluding clerical employees, watchmen, executives, and any

<sup>1</sup> See *Matter of Automatic Products Company*, 40 N. L. R. B. 941.

<sup>2</sup> The Regional Director reported that the Union presented 140 membership application cards bearing apparently genuine signatures of persons whose names appear on the Company's pay roll of September 15, 1943. There are approximately 275 employees in the appropriate unit.

other supervisory employees with authority to hire, discharge, discipline, promote, 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.

#### 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 General Refractories Company, Philadelphia, Pennsylvania, 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 Sixth 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 Construction Workers, Division of District 50, United Mine Workers of America, for the purposes of collective bargaining.