

In the Matter of MOHAWK LUMBER COMPANY and LOCAL UNION No.
5-246, INTERNATIONAL WOODWORKERS OF AMERICA

Case No. 19-R-1190.—Decided January 22, 1944

Mr. Maurice Springer, of Eugene, Oreg., for the Company.

Mr. A. F. Hartung, of Portland, Oreg., and *Mr. Max Gardner*, of Eugene, Oreg., for the Union.

Miss Marcia Hertzmark, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Local Union No. 5-246, International Woodworkers of America, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Mohawk Lumber Company, Marcola, Oregon, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before John E. Hedrick, Trial Examiner. Said hearing was held at Eugene, Oregon, on December 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

Mohawwk Lumber Company, a partnership composed of Maurice Springer, Harold W. White, Bula White, Mable Northcraft, and Anna S. Naden, is engaged in logging operations and in the manufacture of lumber near Marcola, Oregon. The logging operation normally supplies all logs required by the mill, and the mill uses the entire output of the logging operation. The Company produces approxi-

mately 1,250,000 board feet of finished lumber per month, about 85 percent of which is shipped to points outside the State of Oregon.

The Company admits, and we find, that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

Local Union No. 5-246, International Woodworkers of America, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On August 30, 1943, pursuant to a Decision and Direction of Election issued by the Board,¹ an election by secret ballot was conducted among the employees of the Company to determine whether or not they desired to be represented by the Union. The Union having lost this election, the Board thereafter issued a Supplemental Decision and Order finding that no collective bargaining representative had been selected by a majority of the employees and dismissing the petition of the Union. On September 13, 1943, the Union filed another petition. The Company refuses to recognize the Union until it is certified by the Board.

A statement of a Field Examiner introduced into evidence at the hearing indicates that the Union represents a substantial number of employees in the unit hereinafter found appropriate.²

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 National Labor Relations Act.³

IV. THE APPROPRIATE UNIT

The parties are in agreement, and we find, as we did in our previous Decision, that all production, maintenance, and transportation employees of the Company at its logging operations and sawmill, excluding office and 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

¹ N. L. R. B. 1080.

² The Field Examiner reported that the Union submitted 29 application cards, all dated between September 3 and 9, 1943, all bearing apparently genuine, original signatures, and 25 bearing names of persons whose names appear on the Company's pay roll of September 15, 1943. This pay roll contains the names of 48 persons within the appropriate unit. While we will not ordinarily direct an election shortly after a Union has been defeated, the Union's present showing of cards signed after the previous election indicates a sufficient change in circumstances to warrant the holding of an election in this case.

³ After the hearing the Company filed with the Board a motion to dismiss the petition of the Union on the ground that "if the Union should prevail in the next election, that it will result in a lessening of [its] production of logs and lumber." There is clearly no merit in the Company's position and the motion is hereby denied.

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

The Company employs three high school students who work on Saturdays, sometimes replacing regular employees who are absent and sometimes doing clean-up or other work. These boys have not worked during the recent high school football season but at the time of the hearing were expected to resume working regularly on Saturdays. The Company requests that they be excluded from those eligible to vote in the election. As we stated in our previous decision, it appears that these part-time and irregular employees do not have sufficient interest in the terms and conditions of employment of the regular employees to justify their participation in the election. We shall exclude them.

We shall direct that the question concerning representation which has arisen be resolved by 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 Mohawk Lumber Company, Marcola, Oregon, 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 Nineteenth 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 Local Union No. 5-246, International Woodworkers of America, C. I. O., for the purposes of collective bargaining.