

In the Matter of OZAN LUMBER COMPANY and INTERNATIONAL WOOD-  
WORKERS OF AMERICA, AFFILIATED WITH CONGRESS OF INDUSTRIAL  
ORGANIZATIONS

*Case No. 15-R-1047.—Decided February 2, 1944*

*Mr. Wilbur F. Pell*, of Shelbyville, Ind., and *McRae & Tompkins*,  
by *Mr. Chas. H. Tompkins*, of Prescott, Ark., for the Company.

*Mr. Wilson E. Runton*, of Little Rock, Ark., and *Mr. Lloyd Welch*,  
of DeQueen, Ark., for the Union.

*Mr. William Strong*, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by International Woodworkers of America, affiliated with the Congress of Industrial Organizations, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Ozan Lumber Company, Prescott, Arkansas, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Laurence H. Whitlow, Trial Examiner. Said hearing was held at Hope, Arkansas, on January 5, 1944. 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.<sup>1</sup> 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. The Company has filed a brief.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Ozan Lumber Company, which operates three plants in Arkansas, is engaged in the sawmill and lumber production business. We are

<sup>1</sup> Pursuant to agreement among the parties the transcript of testimony has been corrected in certain respects.

here concerned only with the Prescott, Arkansas, operations. During 1943 the Company produced lumber at its Prescott plant valued in excess of \$350,000, approximately 90 percent of which was shipped to points outside the State of Arkansas. The Company has brought into Arkansas for use in the Prescott plant equipment and supplies valued at more than \$30,000. We find that the Company at the Prescott plant is engaged in commerce within the meaning of the National Labor Relations Act.

## II. THE ORGANIZATION INVOLVED

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 November 5, 1943, the Union requested the Company to recognize it as the exclusive collective bargaining representative of the Company's employees. The Company refused.

A statement of the Regional Director for the Board for the Fifteenth Region, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found 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

The Union requests a unit consisting of all production and maintenance employees and watchmen at the Company's Prescott plant, excluding supervisory, office and clerical employees and the woods crew. The Company agrees with this proposed unit except that it would include, rather than exclude the woods crew.

The Prescott plant is divided roughly into six main divisions, namely, the sawmill, the dry kiln, the planing mill, the power plant, the shipping room, and the woods crew. Each is under a separate supervisor. All records, pay rolls, and other office matters are kept and prepared for all six divisions, in Prescott. All the operations are performed in close physical proximity except that of cutting timber, which is performed by the woods crew on timber stands situated between 2 and 35 miles from the plant itself. Members of the woods

<sup>2</sup> The Regional Director reported that the Union submitted 58 membership application cards, 57 of which bore apparently genuine original signatures; that the names of 42 persons appearing on the cards were listed on the Company's pay roll of December 5, 1943. The pay roll contains the names of approximately 53 employees. The record fails to show how many of these employees are in the appropriate unit.

crew come to the plant only occasionally, spending almost their entire time in the woods. There is no interchange of employees between the woods crew and other operations of the Company. Occasionally an employee transfers from one job to another, however. While the woods crew is eligible to membership in the Union, the Union, for various reasons, has not sought to organize the members of the woods crew. The woods crew is geographically separated from the other employees, possesses skills different from those of the other employees, and works under markedly different conditions. We have in the past on occasion included, and on others excluded woods crew or logging employees from units embracing the other described operations.<sup>3</sup> Since here there is no history of collective bargaining on an overall basis, and since the unit sought by the Union coincides with the extent of organization of the employees, we shall exclude the woods crew from the unit.

We find that all production and maintenance employees at the Prescott plant of the Company, including non-militarized watchmen,<sup>4</sup> but excluding the woods crew, supervisory, office and clerical employees 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.

#### V. THE DETERMINATION OF REPRESENTATIVES

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 payroll 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 Ozan Lumber Company, Prescott plant, Prescott, Arkansas, an election by secret

<sup>3</sup> See *Matter of S. A. Agnew Lumber Co.*, 44 N. L. R. B. 1253; *Matter of Potlatch Forests, Inc.*, 51 N. L. R. B. 288; *Matter of Dierke Lumber & Coal Co.*, 52 N. L. R. B. 531; and *Matter of Hillier-Deutsch-Edwards, Inc.*, 53 N. L. R. B. 198.

<sup>4</sup> The record fails to indicate whether the watchmen are militarized; if they are, they will be excluded from the unit; if they are not militarized they are included.

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 Fifteenth 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 employees 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 International Woodworkers of America, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.