

In the Matter of LION CHEMICAL CORPORATION, OPERATORS OZARK ORDNANCE PLANT *and* INTERNATIONAL ASSOCIATION OF MACHINISTS, LOCAL NO. 224, AFFILIATED WITH THE A. F. OF L.

In the Matter of LION CHEMICAL CORPORATION *and* INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL UNION NO. 382, AFFILIATED WITH AMERICAN FEDERATION OF LABOR

Cases Nos. 15-R-1008 and 15-R-1039 respectively.—Decided February 7, 1944

Mr. Jeff Davis, of El Dorado, Ark., for the Company.

Mr. V. C. Clark, of New Orleans, La., for the I. A. M.

Mr. E. W. Hildebrand, of Little Rock, Ark., for the Engineers.

Mr. Joe D. McGee, of Fort Worth, Tex., for the C. I. O.

Mr. Joseph E. Gubbins, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon petitions duly filed by International Association of Machinists, Local No. 224, affiliated with the A. F. of L., herein called the I. A. M. and International Union of Operating Engineers, Local Union No. 382, affiliated with the A. F. of L., herein called the Engineers, alleging that a question affecting commerce had arisen concerning the representation of employees of Lion Chemical Corporation, El Dorado, Arkansas, herein called the Company, the National Labor Relations Board provided for an appropriate consolidated hearing upon due notice before Lawrence H. Whitlow, Trial Examiner. Said hearing was held at El Dorado, Arkansas, on December 3, 1943. The Company, the I. A. M., the Engineers, and Oil Field Workers International Union, affiliated with the C. I. O., herein called the C. I. O., appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing upon the issues. The Company moved for the dismissal of the petitions on the ground that the Board lacks jurisdiction in the matter. The motion is hereby denied. The Trial Examiner's rulings made

54 N. L. R. B., No. 170.

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

Lion Chemical Corporation is a Delaware corporation engaged in the operation of a chemical manufacturing plant at El Dorado, Arkansas, for the United States Government. Each month the Company uses gas valued at approximately \$30,000, all of which is piped to the plant from the State of Louisiana. During the same period the Company manufactured finished products valued at approximately \$300,000, approximately 50 percent of which was shipped to points outside the State of Arkansas. We find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

International Association of Machinists, Local No. 224, and International Union of Operating Engineers, Local Union No. 382, are labor organizations, affiliated with the American Federation of Labor, admitting to membership employees of the Company.

Oil Field Workers International Union, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

III. THE QUESTIONS CONCERNING REPRESENTATION

The I. A. M. and the Engineers have requested recognition as the exclusive bargaining representative of certain employees of the Company; the Company failed to reply to such requests.

A statement prepared by the Regional Director, introduced in evidence, indicates that the I. A. M. and the Engineers represent a substantial number of employees in the unit each alleges to be appropriate.¹

¹ The Regional Director's statement shows that the I. A. M. submitted a certificate containing 37 names of members who had joined between March 1, and September 26, 1943. Twenty-nine of the names found on the certificate were the same names as appeared on the Company's pay roll of September 26, 1943; there are approximately 49 employees in the unit alleged to be appropriate.

The Engineers submitted 185 membership cards, 182 of which bear apparently genuine signatures, and 102 of which bear names of persons whose names are listed on the Company's pay roll mentioned above; there are approximately 333 employees in the unit alleged to be appropriate.

The C. I. O. submitted seven application cards, all of which bear apparently genuine signatures and the names of persons listed on the above-mentioned pay roll in the unit alleged to be appropriate.

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 UNITS

The I. A. M. requests a unit comprised of all maintenance employees, garage mechanics and helpers, engaged in the installation, maintenance and repair of machinery and equipment, including head mechanics, senior mechanics, mechanics, junior mechanics, senior helpers, and helpers. The Engineers seeks a unit comprised of all production employees, exclusive of maintenance employees,² clerical and office employees, employees in the chemical department, plant guards, non-working foremen, and supervisory employees. The Company and the C. I. O. contend that a plant-wide unit is appropriate. The record shows no history of collective bargaining with respect to the employees in the units here sought.

The record reveals that the only apparent reason for the Company's desire for a plant-wide unit is that such unit not only will eliminate the necessity of negotiating with more than one bargaining representative for its employees but will also eliminate the possibility of departmental friction that might otherwise arise in the event that departmental units are found to be appropriate. The C. I. O. offered no evidence to support the appropriateness of a plant-wide unit. However, the record shows that the unit sought by the I. A. M. is composed, for the most part, of maintenance men, such as machinists, pipe fitters, plumbers, carpenters, painters, electricians, and auto mechanics.³ Other than an unappreciable interchange of helpers between the maintenance department and the production departments, the duties of the employees enumerated above are confined solely to maintenance work. All maintenance employees work under two supervisory employees who in turn are under the supervision of the superintendent of maintenance. Since the maintenance employees are under singular supervision, possessing duties and skills which are, for the most part mechanical and differing from those of the other employees of the Company, and since it appears that there is no appreciable interchange of employees between the maintenance and production departments, we find that the maintenance employees constitute an appropriate unit.

The unit sought by the Engineers is comprised of all employees engaged in production operations. The duties of these employees are those usually associated with ordinary production workers. As stated

² The classification "maintenance employees" is intended by the Engineers to mean all the employees in the unit requested by the I. A. M.

³ The various maintenance employees are designated on the Company's pay roll as head mechanics, senior mechanics, mechanics, senior helpers, and helpers.

above, the Company and the C. I. O. desire a plant-wide unit. However, neither the Company nor the C. I. O. offered any evidence to support their contention that the unit sought by the Engineers is inappropriate. Under the circumstances here present, we conclude that all employees engaged in production operations constitute an appropriate unit.

We find that the following groups of the Company's employees in the El Dorado, Arkansas, plant, constitute units appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the Act.

(1) All maintenance employees, including garage mechanics, and helpers engaged in the installation, maintenance, and repair of machinery and equipment, head mechanics,⁴ senior mechanics, mechanics, junior mechanics, senior helpers, and helpers, but excluding all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, and all other employees; and

(2) All production employees, excluding maintenance employees, guards, employees in the chemical department, office and clerical employees, non-working foremen, 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.

V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the questions concerning representation which have arisen be resolved by elections by secret ballot among the employees in the respective units who were employed during the pay-roll period immediately preceding the date of the Direction herein, subject to the limitations and additions set forth in the Direction.

The I. A. M. and the Engineers urge the Board to deny the C. I. O. a place on the ballot on the ground that the C. I. O. has failed to show sufficient representation among the Company's employees in the units found appropriate. However, since the C. I. O. has made some showing of representation and had indicated that it desires to participate in any election which the Board may direct, and inasmuch as elections are to be conducted, in any event, we shall accord it a place on the ballots in the elections hereinafter directed.

DIRECTION OF ELECTIONS

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,

⁴ Head mechanics spend approximately 50 percent of their time supervising the work of other employees. However, there is no showing that they have supervisory status within our customary definition.

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 Lion Chemical Corporation, El Dorado, Arkansas, elections 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 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 units found appropriate in Section IV, above, who were employed by the Company at its El Dorado plant 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, 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 elections; (1) to determine with respect to the employees in the unit described in paragraph (1) of Section IV, whether they desire to be represented by International Association of Machinists, Local No. 224, affiliated with the A. F. of L., or by Oil Field Workers International Union, affiliated with the C. I. O., for the purposes of collective bargaining, or by neither; and (2) to determine, with respect to the employees in the unit described in paragraph (2) of Section IV, whether they desire to be represented by International Union of Operating Engineers, Local Union No. 382, affiliated with the A. F. of L., or by Oil Field Workers International Union, affiliated with the C. I. O., for the purposes of collective bargaining, or by neither.