

In the Matter of DIERKS LUMBER AND COAL COMPANY *and* INTERNATIONAL WOODWORKERS OF AMERICA (CIO)

*Case No. 16-R-804.—Decided February 7, 1944*

*Mr. Elbert Cook*, of DeQueen, Ark., and *Mr. Carl E. Enggas*, of Kansas City, Mo., for the Company.

*Mr. Lloyd C. 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 a petition duly filed by International Woodworkers of America, (CIO), herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Dierks Lumber and Coal Company, Honobia and Clebit, Oklahoma, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before H. Carnie Russell, Trial Examiner. Said hearing was held at DeQueen, Arkansas, on January 4, 1944. The Company and the Union<sup>1</sup> appeared and participated. All parties 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 an 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

Dierks Lumber and Coal Company is a Delaware corporation having its principal office in DeQueen, Arkansas, its business office in Kansas City, Missouri, logging camps at Honobia and Clebit, Oklahoma, and processing plants at Mountain Pine and DeQueen, Arkansas, and

<sup>1</sup> Although notice of hearing was also served upon United Brotherhood of Carpenters & Joiners of America, A. F. L., it did not appear at the hearing.

Broken Bow and Wright City, Oklahoma. We are here concerned with the Company's logging camps at Honobia and Clebit, Oklahoma. The Company is engaged in logging, processing, manufacture, sale, and distribution of lumber and forest products. Approximately 75 percent of the Company's finished products were shipped to points outside the State of Oklahoma.

We find that the Company 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

The Company has refused to grant recognition to the Union as the exclusive bargaining representative of the Company's employees until the Union has been certified by the Board in an appropriate unit.

A statement of a Board agent, 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

We find, in substantial agreement with a stipulation of the parties, that all production and maintenance employees of the Company at the Honobia and Clebit, Oklahoma, logging camps, excluding armed guards or armed watchmen, 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 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 em-

<sup>2</sup> The Field Examiner reported that the Union submitted 136 application-for-membership cards, 132 of which bore apparently genuine original signatures; that the names of 131 persons appearing on the cards were listed on the Company's pay roll of December 15, 1943, which contained the names of 255 employees in the appropriate unit.

ployees 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 Dierks Lumber and Coal Company, Honobia and Clebit, Oklahoma, 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 Sixteenth 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.