

In the Matter of EAST TENNESSEE PACKING Co. and INDEPENDENT
UNION OF MEAT CUTTERS AND PACKINGHOUSE EMPLOYEES

Case No. 10-R-896.—Decided February 14, 1944

Mr. John T. O'Conner, of Knoxville, Tenn., for the Company.
Mr. Hugh C. Simpson, and *Mr. David Trammell*, of Knoxville,
Tenn., for the Independent.
Mr. A. C. Allen, of Madison, Tenn., for the Amalgamated.
Mr. William Strong, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Independent Union of Meat Cutters and Packinghouse Employees, herein called the Independent, alleging that a question affecting commerce had arisen concerning the representation of employees of East Tennessee Packing Co., Knoxville, Tennessee, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Dan M. Byrd, Jr., Trial Examiner. Said hearing was held at Knoxville, Tennessee, on January 24, 1944. The Company, the Independent, and the Amalgamated Meat Cutters and Butcher Workmen of North America, AFL, herein called the Amalgamated,¹ 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

East Tennessee Packing Co., a Tennessee corporation is engaged in slaughtering, skinning, cutting, and packing meat. About 65 percent

¹ Notice of Hearing was also served upon the Congress of Industrial Organizations, which, however, did not appear at the hearing.

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of the Company's annual sales of approximately \$5,000,000, is in interstate trade.

The Company does not contest, and we find, that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

Independent Union of Meat Cutters and Packinghouse Employees, and Amalgamated Meat Cutters and Butcher Workmen of North America, affiliated with the American Federation of Labor, are labor organizations admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company refused to grant recognition to the Independent as the exclusive bargaining representative of the Company's employees until the Independent has been certified by the Board in an appropriate unit.²

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Independent represents a substantial number of employees in the unit hereinafter found appropriate.³

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, truck drivers and helpers, lunch room and shipping room employees, and leadmen,⁴ but excluding the chief shipping clerk, the superintendent, foremen, subforemen, office and clerical employees (not shipping clerks), salesmen, Company executives, 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.

² A contract between the Company and the Amalgamated concerning employees in the unit claimed herein to be appropriate, expired in June 1943.

³ The Field Examiner reported that the Independent submitted 111 authorization cards, 96 of which bore apparently genuine original signatures; that the names of 88 persons appearing on the cards were listed in the Company's pay roll of May 26, 1943, which contained the names of 238 employees in the alleged appropriate unit. The Amalgamated submitted no evidence of its designation, relying on the contract between it and the Company as proof of its interest in the proceeding.

⁴ The duties of the leadmen are not shown by the record. If the duties of the leadmen place them outside of our usual definition of supervisory employees, the leadmen are in the unit; otherwise the leadmen are excluded from the unit.

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 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 East Tennessee Packing Co., Knoxville, Tennessee, 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 Tenth 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 the 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 they desire to be represented by Independent Union of Meat Cutters and Packinghouse Employees or by Amalgamated Meat Cutters and Butcher Workmen of North America, affiliated with the American Federation of Labor, for the purposes of collective bargaining, or by neither.