

In the Matter of BALKE AND KRAUSS COMPANY *and* LOCAL 1788, UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA, AFFILIATED WITH THE AMERICAN FEDERATION OF LABOR

*Case No. 9-R-1274.—Decided February 16, 1944*

*Messrs. Fae W. Patrick, Edward Grimes, and Frank C. Balke, of Indianapolis, Ind., for the Company.*

*Messrs. C. A. Shuey and O. F. Suhr, of Indianapolis, Ind., for the Union.*

*Miss Frances Lopinsky, of counsel to the Board.*

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon an amended petition duly filed by Local 1788, United Brotherhood of Carpenters and Joiners of America, affiliated with the American Federation of Labor, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Balke and Krauss Company, Indianapolis, Indiana, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Benjamin E. Cook, Trial Examiner. Said hearing was held at Indianapolis, Indiana, on December 13, 1943. The Company and the Union appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, to introduce evidence bearing on the issues, and to file briefs with the Board. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Balke and Krauss Company, an Indiana corporation, is engaged at Indianapolis, Indiana, in the distribution of lumber building mate-  
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rials and the manufacture of miscellaneous wood products. The Company annually uses raw materials consisting of wood of a value in excess of \$150,000. Ninety-seven percent of the raw materials used originates outside the State of Indiana. The finished products of the Company are sold and delivered entirely within the State of Indiana.

The Company questions the Board's jurisdiction in this matter. In view of the large amounts of raw materials it obtains through the channels of interstate commerce we find that the Company's business affects commerce within the meaning of the National Labor Relations Act.<sup>1</sup>

## II. THE ORGANIZATION INVOLVED

Local 1788, United Brotherhood of Carpenters and Joiners of America, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

The Company refuses to recognize the Union as the exclusive bargaining representative for its employees unless and until it is certified by the Board.

A statement of an agent of the Board, introduced into evidence, indicates that the Union represents a substantial number of the Company's employees in the appropriate unit.<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 Company operates a mill department and a warehouse on one side of a street in Indianapolis and a lumber yard and a box factory on the other side of the street. The Union requests a unit composed of the non-supervisory production and maintenance employees in the mill only. The Company contends that there is no basis of distinction between the mill employees and the box factory employees and alleges that the only appropriate unit is one composed of both mill and box factory employees.

<sup>1</sup> See *Newport News Shipbuilding and Drydock Co., N. L. R. B. v.*, 101 F. (2d) 841; *N. L. R. B. v. Kudle*, 130 F. (2d) 615.

<sup>2</sup> The Field Examiner reported that the Union submitted 6 application-for-membership cards all of which bore apparently genuine original signatures which corresponded to names of persons listed on the Company's pay roll of November 19, 1943, which contained the names of 10 persons in the appropriate unit. The cards were dated, 4 in August 1943, 1 in October 1943, and 1 undated.

The Company was incorporated in 1894. Until about May 1942, its business was confined to the construction of doors, door frames, windows, window frames and similar building materials. The box factory was established in May of 1942, and the Company thereupon extended its operations to include the assembling of pieces of lumber and hardware into boxes. The only part of the boxes manufactured by the Company is a wedge which is made in the mill. At the time the box factory was opened, the Company did not transfer personnel from the mill to work there but hired an entirely new staff. The Union asserts that the skill of the mill employees is a basis of distinction between the mill employees and the box factory employees. The Company contends, however, that certain of the box factory employees are equally as skilled as the mill employees. It points out that the Company maintains one pay roll, one time clock, one seniority policy, for all employees. Hiring, clerical work, and grievances are centrally handled. One set of officials supervises the operation of all departments and formulates and establishes working conditions for all employees.

We agree with the Company that the optimum unit for bargaining with its employees would be a unit composed of employees of both mill and box factory. However, it appears that only the mill employees have as yet evinced an interest in self-organization for bargaining purposes. Inasmuch as there is a difference in the skills of the machine men and bench men in the mill, who cut and shape wood, and the skilled operators in the box factory, who merely assemble pre-shaped pieces of wood, and since the departments are separately housed and have different work schedules, we find that the employees in the mill alone constitute an identifiable group which may function as a separate bargaining unit until such time as the other production employees of the Company are effectively organized. Our finding in this respect, however, does not preclude a later determination at a more advanced stage of organization that a larger unit is appropriate.

We find that all production and maintenance employees in the Company's mill, excluding foremen, office and clerical employees, plant-protection 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 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 Balke and Krauss Company, Indianapolis, Indiana, 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 Ninth 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 Local 1788, United Brotherhood of Carpenters and Joiners of America, affiliated with the American Federation of Labor, for the purposes of collective bargaining.