

In the Matter of IRONTON FIREBRICK COMPANY *and* UNITED BRICK AND
CLAY WORKERS OF AMERICA, A. F. OF L.

Case No. 9-R-1309.—Decided February 17, 1944

Mr. Howard Van Antwerp, Jr., of Ashland, Ky., for the Company.
Mr. Paul Pelfrey, of Ashland, Ky., for the Union.
Miss S. Catherine Wilson, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Brick and Clay Workers of America, A. F. of L., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Ironton Firebrick Company, Ironton, Ohio, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Thomas E. Shroyer, Trial Examiner. Said hearing was held at Ironton, Ohio, on January 12, 1944. The Company and the Union 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

Ironton Firebrick Company, an Ohio corporation, operates clay mines at Bradmyer in Carter County, Kentucky, and a brick manufacturing plant at Ironton, Ohio. Only the mining operations are involved in this proceeding. The annual value of the fire clay mined will exceed \$25,000. The entire amount is shipped by rail to the Company's manufacturing plant, which sends the major portion of its finished product outside the State of Ohio.

The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

United Brick and Clay Workers of America, affiliated with the American Federation of Labor, 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 its employees until the Union has been certified by the Board in an appropriate unit.

A statement of the Field Examiner, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found appropriate.¹

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, substantially in accordance with the agreement of the parties, that all production and maintenance employees at the Kentucky mines² of the Company, excluding the superintendent, the foreman, and all 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 pay-roll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.

¹ The Field Examiner reported that the Union submitted 21 designations, all of which bore apparently genuine original signatures; that the names of 19 persons appearing on the designations appeared on a list submitted by the Company under the date of December 28, 1943, which contained the names of 29 employees in the appropriate unit; and that the designations were dated October and November 1943.

² The parties are agreed that the calcine kiln is part of the operations involved.

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 Ironton Firebrick Company, Ironton, Ohio, 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 re-hired or reinstated prior to the date of the election, to determine whether or not they desire to be represented by United Brick and Clay Workers of America, affiliated with the American Federation of Labor, for the purposes of collective bargaining.