

In the Matter of ANNISTON WAREHOUSE CORPORATION and BROTHERHOOD OF LOCOMOTIVE FIREMEN AND ENGINEMEN, and BROTHERHOOD OF RAILROAD TRAINMEN

Case No. 10-R-1064.—Decided February 17, 1944

Knox, Liles, Jones & Woolf, by *Mr. R. E. Jones*, of Anniston, Ala., for the Company.

Mr. Charles E. May, of Cleveland, Ohio, for the Firemen and Enginemen.

Mr. J. T. Choyce, of Cleveland, Ohio, for the Trainmen.

Miss Melvern R. Krelow, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed jointly by Brotherhood of Locomotive Firemen and Enginemen, and Brotherhood of Railroad Trainmen, herein collectively called the Unions, alleging that a question affecting commerce had arisen concerning the representation of employees of Anniston Warehouse Corporation, Anniston, Alabama, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Peter F. Ward, Trial Examiner. Said hearing was held at Anniston, Alabama, on January 8, 1944. The Company and the Unions appeared, participated, and 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 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

Anniston Warehouse Corporation, a Delaware corporation, operates an ordnance depot located near Anniston, Alabama, under a cost-plus-

a-fixed-fee operation contract for the United States Government. The Company, in the operation of the depot, receives, stores, renovates, and ships ammunition; and receives, stores, and modifies general supplies and field service maintenance units. The depot, equipment, and materials are the property of the United States Government. Practically all of the materials are shipped to the depot from points outside the State of Alabama, and all are reshipped from the depot to points outside the State of Alabama. We find that the Company, contrary to its contention, is engaged in commerce within the meaning of the National Labor Relations Act.¹

II. THE ORGANIZATIONS INVOLVED

Brotherhood of Locomotive Firemen and Enginemen, and Brotherhood of Railroad Trainmen are labor organizations, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Unions have jointly requested the Company to recognize them as the collective bargaining agent for certain of the Company's employees. The Company refused such recognition until they were certified by the Board.

A statement of a Field Examiner of the Board introduced into evidence at the hearing, indicates that the Unions represent a substantial number of employees in the unit hereinafter found appropriate.²

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 Unions contend that all locomotive engineers and firemen, yardmasters, yard conductors and switchmen constitute an appropriate unit. The Company takes no position with respect to the unit.

We find that all locomotive engineers and firemen, yardmasters,³ yard conductors and switchmen, excluding all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such

¹ At the hearing, the Company contended that it was not subject to the Act because the depot is owned by the United States Government and operated under the latter's supervision and control. We find the contention to be without merit. See *Matter of United States Cartridge Company*, 42 N. L. R. B. 191.

² The Field Examiner reported that the Unions submitted 54 designations, bearing apparently genuine signatures. Of the 54 designations, 52, dated in October 1943, bear the names of persons whose names appear on the Company's pay roll of November 12, 1943, which pay roll contains the names of 54 employees within the unit.

³ The record indicates that these employees do not possess authority which would place them within our customary definition of supervisory employees.

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 Anniston Warehouse Corporation, Anniston, Alabama, 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 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 any 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 jointly by Brotherhood of Locomotive Firemen and Enginemen and Brotherhood of Railroad Trainmen for the purposes of collective bargaining.