

In the Matter of E. I. DUPONT DE NEMOURS & COMPANY *and*
BROTHERHOOD OF LOCOMOTIVE FIREMEN AND ENGINEMEN *and*
BROTHERHOOD OF RAILROAD TRAINMEN

Case No. 10-R-1041.—Decided February 21, 1944

Mr. E. C. First, Jr., of Wilmington, Del., for the Company.
Mr. Charles E. May, of Cleveland, Ohio, for the Firemen.
Mr. W. C. Campbell, of Atlanta, Ga., for the Trainmen.
Mr. Irving Rogosin, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a joint petition duly filed by Brotherhood of Locomotive Firemen and Enginemen, herein called the Firemen, and Brotherhood of Railroad Trainmen, herein called the Trainmen, alleging that a question affecting commerce had arisen concerning the representation of employees of E. I. DuPont de Nemours & Company, Childersburg, Alabama, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Mortimer H. Freeman, Trial Examiner. Said hearing was held at Birmingham, Alabama, on December 2, 1943. The Company, the Firemen, and the Trainmen 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 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.

E. I. DuPont de Nemours & Company is a Delaware corporation, engaged in the manufacture of general chemical products. We are here concerned with its plant at Childersburg, Alabama, where it

is engaged in the manufacture of smokeless powder and high explosives under contract with the United States Government. During the last fiscal year, approximately 89.6 percent of the raw material purchased by the Company was shipped to its plant from points outside the State of Alabama. During the same period, approximately 73 percent of its finished products was shipped to points outside the State of Alabama.

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

II. THE ORGANIZATIONS INVOLVED

Brotherhood of Locomotive Firemen and Enginemen is an unaffiliated labor organization admitting to membership employees of the Company.

Brotherhood of Railroad Trainmen is an unaffiliated labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

It was stipulated between the parties that the question concerning representation arose as a result of a letter dated September 6, 1943, addressed to R. F. Boltz, plant manager at the Childersburg plant, in which the petitioners requested recognition as the exclusive bargaining representatives of the enginemen, firemen, switchmen and yard conductors employed at the Company's plant. Following a conference held at the office of the plant manager on September 28, 1943, the Company declined to recognize the unions on the ground that the unit sought was inappropriate.

A statement of a Board agent introduced into evidence at the hearing indicates that the Firemen and Trainmen represent a substantial number of employees in the unit hereinafter found to be 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

The petitioners seek a unit consisting of all Diesel locomotive operators, conductors and switchmen.² The Company contends that

¹ The Board agent reported that the joint petitioners presented 35 authorization cards, all of which bore apparently genuine original signatures of persons whose names appear on the Company's pay roll of October 10, 1943, which contained the names of 38 employees in the appropriate unit, and that the cards were all dated August 1943. The Firemen presented 12 cards and the Trainmen, 23.

² Although the unit sought, in both the letter of September 6, 1943, and the petition, involved engineers (referred to in the record as both engineers and enginemen), firemen, yard conductors and switchmen, the record discloses that the Company employs only Diesel locomotive operators, conductors and switchmen in the unit sought herein.

the unit is inappropriate and asserts that the only appropriate unit is a plant-wide unit consisting of all its hourly paid wage roll employees. The Company relies here, as it did in a recent case involving units of other employees in the same plant,³ upon its centralized management of employment and personnel, similarity of wage rates, hours and working conditions for all hourly paid wage roll employees for all jobs of like skill, interchange of employees between departments, community of interest created by medical and industrial welfare plans and policies, as well as the functional interdependence of all the Company's operations, in support of its contention for a plant-wide unit.

The plant is comprised of approximately 700 buildings with seven different plant entrances. The company maintains approximately 28.6 miles of apparently standard gauge railroad tracks, over which the Diesel locomotives are operated within an area referred to as "the reservation." The tracks connect with lines of common carriers from whose lines cars are switched to the Company's tracks and subsequently switched and "spotted" over the reservation by means of these Diesel locomotives. Each of the locomotives is manned by a crew consisting of an operator, conductor and switchman. There are a total of 39 such employees comprising 13 crews. Their hourly rates of pay are \$1.24, \$1.16 and \$1.04, plus a 3-cent per hour bonus for shift work, for operators, conductors and switchmen, respectively, as compared with an average hourly wage scale of approximately 90 cents for production employees. The employees in the alleged appropriate unit are required to undergo a training period before qualifying for work on the Diesel locomotives. Trainees, after an average training period of 30 days are usually started as switchmen, and are then generally promoted successively to positions as conductors and operators, after similar training periods.

The railroad transportation department, comprised of these Diesel locomotive crews, is a separate, distinct unit of the Company's transportation division, which includes two other departments, namely, automotive and maintenance of transportation equipment. The entire transportation division, which is headed by a superintendent, employs 538 employees, including the 39 Diesel locomotive employees. There are an assistant superintendent, an area railroad supervisor and 5 shift supervisors under the superintendent. The Diesel locomotive crews operate under the general supervision of the area railroad supervisor. The record discloses no interchange of departmental employees within the transportation division, although there may have been one or two occasions when an employee was transferred to the

³ *Matter of E. I. DuPont de Nemours & Company*, 52 N. L. R. B 1335.

railroad transportation department from the automotive transportation department after receiving the customary training.

The railroad transportation department is geographically separated from the maintenance and production departments and the railroad employees have their own "change houses" or quarters. Lockers and bath houses are provided in separate buildings for the exclusive use of the employees in the railroad transportation department.

It is apparent from the foregoing that the Diesel locomotive crews constitute a functionally distinct, separate, specialized and relatively skilled group. No other labor organization seeks to represent these employees in a unit of broader scope. We have already found certain craft groups to constitute appropriate units at this plant in another proceeding,⁴ and are persuaded that the Diesel locomotive crews, also, can bargain feasibly as a separate unit.⁵

We find that all Diesel locomotive operators, conductors and switchmen of the Company in its plant at Childersburg, Alabama, excluding 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 means of an election by secret ballot among the employees of 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 E. I. DuPont de Nemours & Company, Childersburg, 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

⁴ See footnote 3, *supra*.

⁵ See *Matter of Atlas Powder Company*, 41 N. L. R. B. 127; *Matter of Green River Ordnance Plant Stewart Warner Corporation*, 51 N. L. R. B. 1277; see also, *St. Johns River Shipbuilding Company*, 52 N. L. R. B. 958.

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 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 Brotherhood of Locomotive Firemen and Enginemen and Brotherhood of Railroad Trainmen, unaffiliated, for the purposes of collective bargaining.