In the Matter of UNIVERSAL PICTURES COMPANY, INC. *and* BUILDING SERVICE EMPLOYEES, INT'L. UNION, LOCAL 193, AFL

Case No. 21-R-2187.—Decided February 24, 1944

Loeb & Loeb, by *Mr. Milton H. Schwartz*, of Los Angeles, Calif., for the Company.

Mr. John C. Stevenson, of Los Angeles, Calif., for Local 193.

Mr. David Sokol, of Los Angeles, Calif., for Local 724.

Mr. Fred W. Thurston, of Universal City, Calif., for the Guild.

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

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by Building Service Employees, Int'l. Union, Local 193, AFL, herein called Local 193, alleging that a question affecting commerce had arisen concerning the representation of employees of Universal Pictures Company, Inc., Universal City, California, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Maurice J. Nicoson, Trial Examiner. Said hearing was held at Los Angeles, California, on December 31, 1943. The Company, Local 193, Studio Utility Employees, Local 724, AFL, herein called Local 724, and Universal Studio Protective and Safety Guild, herein called the Guild, appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. At the conclusion of the hearing, Local 724 moved to dismiss the petition on the ground that the Guild is not a labor organization within the meaning of the National Labor Relations Act, and if in consequence it should not be permitted to intervene herein, as Local 724 contends it should not, that there would exist a jurisdictional dispute, since Locals 193 and 724 are both affiliates of the American Federation of Labor. The Trial Examiner reserved ruling for the Board. We find the foregoing contention to be without merit; the motion is hereby denied. 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

Universal Pictures Company, Inc., a Delaware corporation, operates a studio in Universal City, California, where it is engaged in the production of motion pictures. The Company produces annually more than 35 feature length motion pictures and other motion picture subjects. For this purpose, the Company purchases annually film valued in excess of $200,000, all of which is shipped to the Company from points outside the State of California. The negatives of the completed motion pictures are shipped to the Company's laboratory in the State of New Jersey, where prints are made and distributed throughout the United States. Some of the prints are made in the Company's laboratory in California, for western distribution. The Company admits that it is engaged in commerce within the meaning of the Act.

II. THE ORGANIZATIONS INVOLVED

Building Service Employees, Int'l. Union, Local 193, and Studio Utility Employees, Local 724, are labor organizations affiliated with the American Federation of Labor, admitting to membership employees of the Company.

Universal Studio Protective and Safety Guild is an unaffiliated labor organization, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On February 26, 1941, the Company and the Guild executed a contract, effective as of February 24, 1941, for 7 years. This contract covered substantially the same employees as are here involved. No issue was raised to the contract being a bar to a present determination of representatives.[1]

The Company has refused to recognize Local 193 as bargaining agent of the Company's employees.

Statements of a Field Examiner and of the Trial Examiner, introduced into evidence at the hearing, indicate that Local 193 represents

[1] In any event, the 7-year contract has been in effect for almost 3 years, and consequently is not a bar to an election at this time See *Matter of Wichita Union Stockyards Company,* 40 N. L. R. B. 369, and cases cited therein.

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

With the exception of lot and set watchmen, the parties agreed that the appropriate unit should consist of all plant-protection employees, including police, firemen, clock and tourmen, but excluding the chief and assistant chief. It appears that all parties desire the inclusion of lot and set watchmen except Local 724.

Lot and set watchmen guard the advance of vehicles and people when the Company is "shooting" exterior pictures, primarily on the lot, so as to prevent sound interference. They guard the sets either during the actual "shooting" of a picture, or when the sets are "dead," but still "dressed" for future use. These watchmen are also stationed at the entrance doors of the sets. They are hourly paid as are the other plant-protection employees, and are under the same supervision. The set and lot watchmen have been covered by the contract between the Company and the Guild. We are of the opinion that the set and lot watchmen have interests in common with those of the other plant-protection employees, and we shall, therefore, include them within the unit.

We find that all plant-protection employees, including police, firemen, set and lot watchmen, clock and tourmen, but excluding the chief and assistant chief, and all other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes

[2] The Field Examiner reported that local 193 submitted 43 application-pledge-for-membership forms, 41 dated between January and October 1943, 2 undated, bearing apparently genuine signatures Of the 43 presented, 32 bear names of persons whose names appear on the Company's pay-roll list of November 6, 1943, which contains the names of 76 persons in the unit.

At the hearing, Local 193 presented to the Trial Examiner 12 application-pledge-for-membership cards, all bearing apparently genuine signatures, 8 of which bear names of persons whose names appear on the Company's pay roll of November 6

The Field Examiner further reported that Local 724 presented 4 application-for-membership forms, dated in November 1943, bearing apparently genuine signatures and bearing the names of persons whose names appear on the Company's pay roll of November 6. Local 193 moved to dismiss the intervention of Local 724 on the ground that Local 724 had not made a sufficient showing to justify its being given a place on the ballot. It further moved that the authorization card of Eugene J. Richards be withdrawn as one of the authorization cards submitted by Local 724, on the ground that Richards had signed the card under the impression that he was signing an authorization for Local 193. The Trial Examiner referred the motions to the Board. The motions are hereby denied, and we shall accord Local 724 a place on the ballot.

The Guild relies upon its contract as evidence of interest in this proceeding.

in the status of employees, or effectively recommend such action,[3] 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 Universal Pictures Company, Inc., Universal City, California, 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 Twenty-first 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 they desire to be represented by Building Service Employees, Int'l. Union, Local 193, AFL, or by Studio Utility Employees, Local 724, AFL, or by Universal Studio Protective and Safety Guild, for the purposes of collective bargaining, or by none.

[3] It appears that the Company employs four lieutenants. The record, however, is not sufficiently definite as to the authority exercised by these employees to permit a determination of their supervisory status. They shall therefore be excluded or included according to whether or not they fall within the customary definition of supervisory employees set forth above.