

In the Matter of SEARS, ROEBUCK & Co. and WAREHOUSE EMPLOYEES
UNION #322 TRUCK DRIVERS & HELPERS UNION #592

Case No. 5-R-1429.—Decided March 6, 1944

Mr. R. D. Hooke, of Chicago, Ill., for the Company.

Mr. Russell Braun and *Mr. L. G. Lane*, of Richmond, Va., for the
Unions.

Mr. William Strong, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Warehouse Employees Union #322 and Truck Drivers & Helpers Union #592, locals of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, AFL, herein called the Unions, alleging that a question affecting commerce had arisen concerning the representation of employees of Sears, Roebuck & Co., Richmond, Virginia, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before George L. Weasler, Trial Examiner. Said hearing was held at Richmond, Virginia, on February 8, 1944. The Company and the Unions 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

Sears, Roebuck & Co., a New York corporation, operates numerous retail stores, mail order plants, and factories throughout the United States. We are here concerned only with its warehouse and retail store at Richmond, Virginia. During its 1942 fiscal year, the Company

received materials and merchandise at its Richmond warehouse and store valued in excess of \$500,000, about 95 percent of which was shipped from sources outside the State of Virginia, and about 1 percent of its sales during the same period was made to customers outside that State.

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

II. THE ORGANIZATIONS INVOLVED

Warehouse Employees Union #322 and Truck Drivers & Helpers Union #592, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, affiliated with the American Federation of Labor, are labor organizations admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the Unions as the exclusive bargaining representatives of certain of the Company's employees until the Unions have been certified by the Board in an appropriate unit.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Unions represent 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, in substantial agreement with a stipulation of the parties, that all warehousemen, truck drivers and helpers, markers, stockmen, order checkers, shopmen, receiving and utility employees at the Company's warehouse at 13th and Canal Streets, Richmond, Virginia, excluding the warehouse manager, assistant manager (head shipper), clerical 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 em-

¹ The Field Examiner reported that the Unions submitted 24 membership application cards all of which bore apparently genuine original signatures; that the names of 13 persons appearing on the cards were listed on the Company's pay roll of December 10, 1943, which contained the names of 27 employees in the alleged appropriate unit.

ployees 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 Sears, Roebuck & Co., 13th and Canal Streets, Richmond, Virginia, 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 Fifth 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 International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Locals #592 and #322,² for the purposes of collective bargaining.

MR. JOHN M. HOUSTON took no part in the consideration of the above Decision and Direction of Election.

² The Unions wish to be so designated on the ballot.