

In the Matter of GARFIELD REFRACTORIES COMPANY and UNITED CONSTRUCTION WORKERS, DIVISION OF DISTRICT 50, UNITED MINE WORKERS OF AMERICA

*Case No. 6-R-901.—Decided March 7, 1944*

*Mr. Abner H. Goldman*, of Cleveland, Ohio, *Mr. Frank Rugh*, of Jeanette, Pa., and *Mr. Kenneth Rugh*, of Bolivar, Pa., for the Company.

*Mr. Rudolph Mihelic*, of Johnstown, Pa., for the Union.

*Mr. William Strong*, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Construction Workers, Division of District 50, United Mine Workers of America, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Garfield Refractories Company, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before W. G. Stuart Sherman, Trial Examiner. Said hearing was held at Pittsburgh, Pennsylvania, on February 11, 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

Garfield Refractories Company, a Pennsylvania corporation, is engaged in the mining of fire clay and the manufacture of refractory

products. The Company's main office is located at Bolivar, Pennsylvania, and it operates a plant at Bolivar, a mine near Altoona, at Kittanning Point, and a dust mill at Cresson, all in Pennsylvania. Only the mine at Kittanning Point and the dust mill at Cresson are involved in this proceeding. The crude fire clay produced at the Kittanning Point mine is processed at the Cresson mill and the Bolivar plant. During 1943, the Company produced clay of an approximate value of \$30,000, of which at least one-sixth was shipped to points outside the State of Pennsylvania, the bulk of the remainder being shipped to the Bolivar plant, where, together with fire clay obtained from other sources within the State, it was used in the manufacture of refractory products valued at more than \$250,000, of which approximately 15 percent was shipped to points outside Pennsylvania.

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

## II. THE ORGANIZATION INVOLVED

United Construction Workers, Division of District 50, United Mine Workers of America, 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 certain employees of the Company until the Union has been certified by the Board in an appropriate unit.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found appropriate.<sup>1</sup>

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 production and maintenance employees at the Company's strip and deep mine, known as its Kittanning Point mines, and at the Company's dust mill at Cresson, Pennsylvania, but excluding supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recom-

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<sup>1</sup>The Field Examiner reported that the Union submitted 15 membership application cards and that there are 26 employees in the alleged appropriate unit.

mend 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.

#### 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 Garfield Refractories Company, Bolivar, Pennsylvania, 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 Sixth 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 quite 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 United Construction Workers, Division of District 50, United Mine Workers of America, for the purposes of collective bargaining.

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