

In the Matter of EUREKA SHIPBUILDING CORP. and LOCAL 301, UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA, A. F. OF L.

Case No. 2-R-4282.—Decided March 9, 1944

Proskauer, Rose, Goetz & Mendelsohn, by *Mr. Arthur E. Reyman*, of New York City, for the Company.

Messrs. John Ryan and George A. McKinnon, of New York City, *Mr. Frank Martocci*, of Kingston, N. Y., and *Messrs. James A. Barr*, and *William F. Stanton*, of Newburgh, N. Y., for the Carpenters.

Messrs. Max Delson and Charles L. Brecht, of New York City, and *Mr. James G. McKnight*, of Newburgh, N. Y., for the Industrial Union.

Mr. William R. Cameron, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

Upon petition duly filed by Local 301, United Brotherhood of Carpenters and Joiners of America, A. F. of L., herein called the Carpenters, alleging that a question affecting commerce had arisen concerning the representation of employees of Eureka Shipbuilding Corp., Newburgh, New York, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before James C. Paradise, Trial Examiner. Said hearing was held at Newburgh, New York, on January 20 and 26, 1944. The Company, the Carpenters, and Industrial Union of Marine and Shipbuilding Workers of America, Local #53, C. I. O., herein called the Industrial Union, 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 hearing the Company and the Industrial Union moved the dismissal of the petition. For reasons hereinafter appearing, this motion is hereby granted. 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

Eureka Shipbuilding Corp., a New York corporation, has its principal place of business and plant in Newburgh, New York, where it is engaged in the construction, repair, and conversion of caissons, lighters, barges, tugs, and other types of vessels, all of its production being for war purposes. The vessels upon which the Company works are used in domestic, inter-coastal and foreign commerce. The Company purchased during the past year material valued in excess of \$100,000, of which approximately 25 percent came from sources outside the State of New York. The value of construction and repairs to vessels during the past year was in excess of \$250,000, of which more than 50 percent was for vessels which were transported outside the State of New York. The Company concedes that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

Local 301, United Brotherhood of Carpenters and Joiners of America, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

Industrial Union of Marine and Shipbuilding Workers of America, Local #53, is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

III. THE ALLEGED APPROPRIATE UNIT

The Carpenters seeks a unit composed of all employees listed as carpenters on the Company's pay roll, including helpers, but excluding foremen and other supervisors. The Industrial Union and the Company contend that the craft unit sought by the Carpenters is not an appropriate one, but that the appropriate unit is industrial in scope.

The Company commenced operations in March 1942. The Industrial Union entered into collective bargaining negotiations with the Company within a few months thereafter, and obtained a contract covering the Company's employees in an industrial unit, which contract was automatically renewed on or about October 1, 1943, and is presently in effect. The Industrial Union has represented workers of all crafts in the yard in its collective bargaining negotiations with the Company and in the handling of grievances.

The record discloses that by reason of the nature of the Company's operations, there is considerable intermingling and overlapping of

work among the various crafts in the yard. In the early stages of operations in connection with the conversion of a vessel it is necessary that workers of a number of crafts, including carpenters, be employed solely as laborers in ripping out and cleaning up parts of the interior. In the subsequent process of conversion, the extent of the work of the several crafts varies, so that the work of any particular craft predominates only during a portion of the reconstruction process. Consequently, carpenters are frequently employed at other work such as shipfitting, and in some instances workers employed as shipfitters engage in carpenter work. The Company's supervisor of conversion testified at the hearing that although the amount of carpenter work varies, the Company tries to keep available a permanent crew of carpenters, and that as a result some may spend their entire time at carpentry, while others may do little or no carpenter work during the course of operations on a particular ship.

In view of the considerable employment of carpenters at other work, and their intermingling with other crafts, as well as the history of bargaining on an industrial basis in the Company's yard, we find that the unit herein sought is not appropriate for the purposes of collective bargaining.¹

IV. THE ALLEGED QUESTION CONCERNING REPRESENTATION

Since, as pointed out in Section III, above, the bargaining unit sought to be established by the petition is inappropriate for the purposes of collective bargaining, we find that no question has been raised concerning the representation of employees in an appropriate unit. Accordingly, we shall dismiss the petition.

ORDER

Upon the basis of the above findings of fact and upon the entire record in the case, the National Labor Relations Board hereby orders that the petition for investigation and certification of representatives of employees of Eureka Shipbuilding Corp., Newburgh, New York, filed by Local 301, United Brotherhood of Carpenters and Joiners of America, affiliated with the American Federation of Labor, be, and it hereby is, dismissed.

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

¹ See *Matter of Julius Peterson*, 46 N. L. R. B. 1049; *Matter of Dooley's Basin & Dry Dock, Inc.*, 43 N. L. R. B. 745; *Matter of Robert Jacobs, Inc.*, 32 N. L. R. B. 646.