

In the Matter of **TENNESSEE COACH COMPANY and AMALGAMATED ASSOCIATION OF STREET, ELECTRIC RAILWAY AND MOTOR COACH EMPLOYEES OF AMERICA, DIVISION #1164, AFFILIATED WITH THE A. F. OF L.**

Case No. 10-R-1110.—Decided March 9, 1944

Mr. Charles D. Snapp, of Knoxville, Tenn., for the Company.

Mr. C. C. Maples, of Strawberry Plains, Tenn., for the Union.

Mr. David V. Easton, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Amalgamated Association of Street, Electric Railway and Motor Coach Employees of America, Division #1164, affiliated with the American Federation of Labor, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Tennessee Coach Company, Knoxville, Tennessee, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before George S. Slyer, Trial Examiner. Said hearing was held at Knoxville, Tennessee, on February 15, 1944. The Company and the 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. 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

Tennessee Coach Company, a Tennessee corporation with its office and principal place of business located in Knoxville, Tennessee, is engaged as a common carrier in the transportation of persons between

various termini located in the States of Tennessee, Georgia, Virginia, and West Virginia. In the course and conduct of its business the Company purchased raw materials valued at approximately \$650,000 during the past year, of which about 77 percent was obtained from points located outside the State of Tennessee. We find that the Company is engaged in commerce, within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

Amalgamated Association of Street, Electric Railway and Motor Coach Employees of America, Division #1164, is a labor organization affiliated with the American Federation of Labor, 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 of its employees until the Union has been certified by the Board.

A statement of the Field Examiner, introduced into evidence at the hearing, indicates that the Union represents 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

The Union seeks a unit composed of all bus drivers of the Company. The Company contends that such a unit is inappropriate, and that the proper unit should include all employees of the Company exclusive of clerical and supervisory employees and dispatchers.²

The functional operations of the Company are divided between a mechanical department under the supervision of a master mechanic, and a transportation department, which includes the employees whom the Union seeks to represent, under the supervision of a chief dispatcher. Each of these departments has a separate seniority roster, and in the

¹ The Field Examiner reported that the Union submitted 56 application cards, of which 52 bore the names of persons appearing on the Company's pay roll containing the names of 114 employees in the unit hereinafter found appropriate. He further reported that none of the applications submitted by the Union contained names of employees not included within said unit.

² The Company argues, in support of its contention, that the Union had previously attempted to organize employees in the more inclusive unit which it claims as appropriate. We find no merit in this argument, since we are of the opinion that past organizational attempts do not preclude the Union from representing a more limited unit of employees if such a unit is, in fact, appropriate. See *Matter of Standard Overall Company*, 53 N. L. R. B. 960

event of a transfer from one to the other, the employee so transferred retains his seniority in his original department, and begins to acquire seniority in the department to which he has been transferred. The Union has endeavored to confine its present organizational activities solely to the Company's drivers, and, as hereinbefore indicated, its representational claims are restricted to this group.³

We have previously found that a group similar to that sought by the Union constitutes a proper collective bargaining unit.⁴ In the absence of any prior history of collective bargaining on behalf of the employees of the Company, and in view of the foregoing circumstances, we are of the opinion and find that the unit proposed by the Union is appropriate.

We find, therefore, that all bus drivers of the Company, excluding the chief dispatcher, and all other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, and all other employees of the Company, 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 payroll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.

The Regional Director is hereby authorized to conduct the election in whole or in part by mail.

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 Tennessee Coach Company, Knoxville, Tennessee, 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 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

³ See footnote 1, *supra*

⁴ *Matter of Dixie Greyhound Lines, Inc.*, 52 N. L. R. B. 424.

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 Amalgamated Association of Street, Electric Railway and Motor Coach Employees of America, Division #1164, affiliated with the American Federation of Labor, for the purposes of collective bargaining.

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