

In the Matter of THE AUGLAIZE BOX BOARD COMPANY and DISTRICT
50, UNITED MINE WORKERS OF AMERICA

Case No. 8-R-1391.—Decided March 30, 1944

Mr. H. J. Essman and Mr. T. D. Young, of St. Marys, Ohio, for the Company.

Mr. Walter E. Mackey, of Toledo, Ohio, and Mr. W. F. Wydallis, of St. Marys, Ohio, for the UMW.

Mr. William Strong, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by District 50, United Mine Workers of America, herein called the UMW, alleging that a question affecting commerce had arisen concerning the representation of employees of The Auglaize Box Board Company, St. Marys, Ohio, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Louis Plost, Trial Examiner. Said hearing was held at St. Marys, Ohio, on March 6, 1944. The Company and the UMW appeared and participated.¹ 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

The Auglaize Box Board Company is an Ohio corporation operating a paper mill at St. Marys, Ohio, where it is engaged in the

¹ Although served with Notice of Hearing, the International Brotherhood of Firemen and Oilers, Local 196 (AFL), herein called the International, did not appear.

manufacture of jute linerboard and tube and can stock. A substantial percentage of the raw materials used by the Company, valued at about \$100,000 in 1943, came from outside the State of Ohio, while 76 percent of the Company's finished products, valued at more than \$100,000 in 1943, was shipped to points outside that State.

We find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

District 50, United Mine Workers of America, and International Brotherhood of Firemen and Oilers, Local 196, 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 UMW as the exclusive bargaining representative of certain of the Company's employees on the ground that the Company and the International are parties to a contract covering the employees whom the Union claims to represent. The contract in question was executed in August 1940 and by its terms continued in effect until May 31, 1941, and year to year thereafter until notice to the contrary is given by either party 30 days prior to the annual anniversary date. Since the contract will soon expire it is no bar to a determination of representatives for the purpose of negotiating a new agreement at the expiration of the present contract, if such is desired.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the UMW represents 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

We find, in substantial agreement with a stipulation of the parties, that all employees of the engine and boiler room of the Company, excluding 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

² The Field Examiner reported that the UMW submitted 11 authorization cards, all of which bore names of persons appearing on the Company's pay roll of January 26, 1944, which contained the names of 11 employees in the alleged appropriate unit.

The International has claimed an interest in this proceeding by virtue of its contract with the Company. The Field Examiner also reported that the International submitted a "petition" bearing the names of 11 employees in the unit.

appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.³

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 The Auglaize Box Board Company, St. Marys, Ohio, 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 Eighth 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 the 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 any 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 District 50, United Mine Workers of America, or by International Brotherhood of Firemen and Oilers, Local 196, affiliated with the American Federation of Labor, for the purposes of collective bargaining, or by neither.

³ This is the unit covered by the contract between the Company and the International.