

IN the Matter of EAST SHORE NEWSPAPERS, INC., PUBLISHERS EAST ST. LOUIS JOURNAL and REPORTERS AND PHOTOGRAPHERS FEDERAL LABOR UNION 23609, AFL

Case No. 14-R-866.—Decided April 4, 1944

Messrs. P. H. Wire and Edward Lindsay, of East St. Louis, Ill., for the Company.

Messrs. Fred Olds and Ralph E. Schmidt, of East St. Louis, Ill., for the Union.

Miss Eleanor Schwartzbach, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Reporters and Photographers Federal Labor Union 23609, AFL, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of East Shore Newspapers, Inc., Publishers East St. Louis Journal, East St. Louis, Illinois, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Helen F. Humphrey, Trial Examiner. Said hearing was held at St. Louis, Missouri, on February 21, 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

The East Shore Newspaper, Inc., a Delaware corporation, having its principal office and place of business in East St. Louis, Illinois, is engaged in the publication, distribution, and sale of a daily (except

Saturday and Sunday mornings) newspaper, the East St. Louis Journal. The chief raw materials used, valued at approximately \$33,000, are obtained from points outside the State of Illinois. The daily average circulation of the East St. Louis Journal is approximately 17,000 copies a month, and the average Sunday circulation is approximately 19,000 copies a month. Approximately 500 copies of the paper are mailed outside the State of Illinois, mostly to members of the armed forces. The Company is a member of the United Press, and subscribes to news features which collect and transmit news and features in all parts of the United States. The Company runs advertisements for numerous national advertising agencies with headquarters in New York and Chicago. The Company employs about 114 persons.

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

II. THE ORGANIZATION INVOLVED

Reporters and Photographers Federal Labor Union 23609, affiliated with the American Federation of Labor, 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 the reporters until the Union has been certified by the Board in an appropriate unit.

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

In its petition the Union alleged that "all reporters and photographers, excluding all editors and all other employees" constitute an appropriate bargaining unit. During the hearing, the Union amended the petition to include reporters, copy boys,² and photographers. The Company contends that if the Union is the same organization as the union which had originally sought recognition as the representative of these employees, the "Advertising, Publicity

¹ The Field Examiner reported that the Union had submitted 7 authorization cards, all of which bore apparently genuine original signatures, that 6 were dated in December 1943 and 1 in January 1944, and that there were 10 employees in the alleged appropriate unit.

² The record reveals that the Company has no copy boys in its employ and does not contemplate hiring any.

and Newspaper Representatives, Local No. 20711, AFL," a single unit composed of all the employees of the Company, excluding those employees on behalf of whom other labor organizations³ have already bargained and secured contracts with the Company is appropriate. If, however, the Union excludes from its jurisdiction all but editorial employees,⁴ the Company alleges that an appropriate unit consists of all the employees in the editorial department.

The Union's position with regard to the general bargaining unit sought by the Company is that the editors, whom the Union does not admit to membership, are supervisory employees and should not be included in such unit. The record shows that the reporters are directly responsible to and work under the direction of the managing editor and subeditors, consisting of the sports, city, and society editors. The managing editor has power to hire and discharge, and the subeditors may recommend disciplinary action to the managing editor, and we shall therefore exclude these four positions from the appropriate unit.

There remains for consideration the Union's contention that correspondents and 2 employees designated by the Company as reporters, Herbert Crocker and Arthur M. Jennings, be excluded from the appropriate unit. The record reveals that the 27 correspondents employed by the Company are independent contractors who receive from \$2 to \$35 a month. The correspondents work in small towns or cities where they gather news and forward it to the Editorial Department, either by mail or by telephone. Crocker and Jennings work for other newspapers besides the East St. Louis Journal. They cover news in towns outside of East St. Louis and phone or mail in the news which they gather to the city editor. They do not have offices in East St. Louis. Both men work on a part-time basis and receive \$30 a month. The regular reporters have offices in East St. Louis, work a 40-hour week, and receive from \$25 to \$50 a week plus overtime. Since the compensation and working conditions of the correspondents and Crocker and Jennings differ substantially from that of the regular reporters, we shall exclude them from the appropriate unit.

The Company's photographer is on leave in the armed forces. The Company is now using commercial photographers when necessary. The Union anticipates that another photographer will be employed by the Company, and contends that such photographer should be included

³ The record shows that the Company is operating under contracts with the following labor organizations: the St. Louis Stereotype Union No. 8 for the employees in the stereotype room, the St. Louis Typographical Union No. 8 for the employees in the composing room, the St. Louis Mailers' Union No. 3 for the employees in the mail room; the St. Louis Web Printing Pressman's Union No. 38 for the employees in the pressroom. The Union does not claim to represent any persons who are members of or are eligible to membership in any of the foregoing organizations.

⁴ At the present time the Union is the only labor organization which has requested recognition as representative of the Company's reporters and it neither admits to membership nor is seeking to represent any employees except the reporters, photographers, and copy boys.

in the appropriate unit. The photographer, like reporters, receives his assignments from the city editor or the sports editor, and is engaged in obtaining photographs for news purposes. We find that, if and when employed, photographers should be included in the unit.

We find that all reporters and photographers employed by the Company, but excluding editors, correspondents, and Crocker and Jennings, 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, 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 East Shore Newspapers, Inc., Publishers East St. Louis Journal, East St. Louis, Illinois, 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 Fourteenth 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 or not they desire to be represented by Reporters and Photographers Federal Labor Union 23609, affiliated with the American Federation of Labor, for the purposes of collective bargaining.