

In the Matter of AMBOY MILK PRODUCTS COMPANY and INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA, A. F. OF L.

Case No. 13-R-2347.—Decided May 5, 1944

Mr. H. A. Bachofen, of Amboy, Ill., and *Mr. Robert L. Braken*, of Dixon, Ill., for the Company.

Mr. Frank N. Lessner, of Dixon, Ill., 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 International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, A. F. of L., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Amboy Milk Products Company, Amboy, Illinois, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Robert R. Drake, Trial Examiner. Said hearing was held at Dixon, Illinois, on April 4, 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 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

Amboy Milk Products Company, an Illinois corporation, is engaged at its plant in Amboy, Illinois, in the manufacture and sale of evaporated milk. During the year 1943 the Company purchased materials for use in the conduct of its business valued at more than \$1,000,000, all of which was obtained from points within the State of Illinois.

During the same period the sales of the Company amounted in value to more than \$1,000,000. Ninety percent of all present sales are made to the United States Army, Navy, and Lend Lease Administration, and approximately 60 percent of the products of the Company are ultimately shipped to points outside the State of Illinois.

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

II. THE ORGANIZATION INVOLVED

International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, Local 455,¹ 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 its employees until the Union has been certified by the Board in an appropriate unit.

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

The parties agree that all full-time employees of the Company, excluding office, clerical, and supervisory employees, constitute an appropriate unit. The Union, however, would exclude from the unit all part-time employees whereas the Company would include them.

The record indicates that at present the Company employs approximately seven part-time employees. These persons are school boys who work after school hours and on Saturdays on the average of 16 to 18 hours a week. They are employed at unloading boxes, pasting labels, and light hand trucking work. Many of them were employed full-time by the Company in the summer of 1943 and have been offered similar work for the summer of 1944. They receive 50 cents per hour, whereas the lowest paid full-time employees receive

¹ The record discloses that Local 455 is the local organization more particularly concerned herein.

² The Field Examiner reported that the Union submitted 31 designations, and that the proposed unit contained 43 employees

57½ cents per hour. However, all other conditions of employment are the same for both full-time and part-time employees and both categories of employees are listed on the same pay roll. We are of the opinion that the part-time employees, working under substantially the same conditions of employment as the full-time employees, are entitled to a voice in the choice of a collective bargaining representative, and we shall include them within the unit.³

We find that all employees of the Company, including part-time employees, but excluding office and clerical employees, and 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 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 Amboy Milk Products Company, Amboy, 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 Thirteenth 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

³ *Matter of Armour and Company of Delaware, d/b/a Armour Creameries*, 51 N. L. R. B. 28; *Matter of Vermont Structural Steel Corporation*, 53 N. L. R. B. 1178.

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 International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, Local 455, A. F. of L., for the purposes of collective bargaining.