

In the Matter of THE AKRON PORCELAIN COMPANY and FEDERATION
OF GLASS, CERAMIC AND SILICA SAND WORKERS OF AMERICA, CIO

Case No. 8-R-1483.—Decided May 31, 1944

Messrs. L. M. Buckingham, T. W. Butler, and D. M. McCann, of Akron, Ohio, for the Company.

Holmes, Lewis & Menendez, by Mr. W. T. Lewis, of Columbus, Ohio, Mr. Leland Beard, of Columbus, Ohio, and Messrs. Thomas Beer, and Theodore Wolf, of Akron, Ohio, for the Federation.

Mr. Pat Calvert, of Akron, Ohio, for the Brotherhood.

Mr. Louis Cokin, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by Federation of Glass, Ceramic and Silica Sand Workers of America, CIO, herein called the Federation, alleging that a question affecting commerce had arisen concerning the representation of employees of The Akron Porcelain Company, Akron, 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 Cleveland, Ohio, on May 3, 1944. At the commencement of the hearing, the Trial Examiner granted a motion of Local 160, National Brotherhood of Operative Potters, AFL, herein called the Brotherhood, to intervene. All parties 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

The Akron Porcelain Company is an Ohio corporation with its principal place of business at Akron, Ohio, where it is engaged in the
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manufacture, sale, and distribution of electrical porcelain. During 1943 the Company used raw materials valued in excess of \$25,000, approximately 70 percent of which was shipped to it from points outside the State of Ohio. During the same period the Company manufactured products valued in excess of \$100,000, approximately 75 percent of which was shipped to points outside the State of Ohio.

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

II. THE ORGANIZATIONS INVOLVED

Federation of Glass, Ceramic and Silica Sand Workers of America is a labor organization affiliated with the Congress of Industrial Organizations admitting to membership employees of the Company.

Local 160, National Brotherhood of Operative Potters, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On March 20, 1944, the Federation requested the Company to recognize it as the exclusive collective bargaining representative of the Company's employees. The Company refused this request on the ground that it was operating under a contract with the Brotherhood.

On May 6, 1942, and July 8, 1943, the Company and the Brotherhood entered into an exclusive collective bargaining contract and a supplemental agreement respectively. The contract as supplemented expired by its terms on May 1, 1944.

A statement of a Field Examiner of the Board, introduced into evidence at the hearing, indicates that the Federation represents a substantial number of employees in the unit hereinafter found to be 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

We find, in substantial agreement with a stipulation of the parties, that all production and maintenance employees of the Company, including watchmen,² but excluding clerical employees not directly

¹The Field Examiner reported that the Federation presented 40 authorization cards bearing the names of persons who appeared on the Company's pay roll of April 21, 1944. There are approximately 54 employees in the appropriate unit. The Brotherhood did not present any evidence of representation but relies upon its contract as evidence of its interest in the instant proceeding.

²The watchmen employed by the Company are really production employees and perform part-time duties as watchmen.

connected with production 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 means of 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 Akron Porcelain Company, Akron, 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 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 Federation of Glass, Ceramic and Silica Sand Workers of America, C. I. O. or by Local 160, National Brotherhood of Operative Potters, AFL, for the purposes of collective bargaining, or by neither.