

In the Matter of DETROIT COCA COLA BOTTLING COMPANY and LOCAL 337, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA, A. F. OF L.

Case No. 7-R-1753.—Decided June 15, 1944

Mr. Maurice H. Mac Mahon, of Detroit, Mich., for the Company.

Padway & Goldberg, by *Mr. I. E. Goldberg*, of Milwaukee, Wis., and *Messrs. James Hoffa* and *Robert Holmes*, of Detroit, Mich., for Local 337.

Mr. Martin F. Donoghue, of Washington, D. C., and *Messrs. Eugene J. McCann*, *Charles B. Hewgley* and *John J. Fox*, of Detroit, Mich., for Local 38.

Mr. Louis Cokin, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by Local 337, International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, A. F. of L., herein called Local 337, alleging that a question affecting commerce had arisen concerning the representation of employees of Detroit Coca Cola Bottling Company, Detroit, Michigan, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Robert J. Wiener, Trial Examiner. Said hearing was held at Detroit, Michigan, on May 26, 1944. At the commencement of the hearing the Trial Examiner granted a motion of Local 38, International Union of United Brewery, Flour, Cereal and Soft Drink Workers of America, C. I. O., herein called Local 38, to intervene. The Company, Local 337, and Local 38, 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.

56 N. L. R. B., No. 252.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Detroit Coca Cola Bottling Company is engaged in the bottling of soft drinks at two plants in Detroit. The Company uses materials valued in excess of \$1,000,000 annually and shipped to it from points outside the State of Michigan. All its products are sold within the State of Michigan.

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

II. THE ORGANIZATIONS INVOLVED

Local 337, International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

Local 38, International Union of United Brewery, Flour, Cereal and Soft Drink Workers of America, is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company refuses to recognize Local 337 as the exclusive collective bargaining representative of its employees until such time as Local 337 is certified by the Board.

The Company and Local 38 were parties to a contract which expired on March 19, 1944. On April 24, 1944, Local 337 made its claim upon the Company. On May 24, 1944, the Company and Local 38 entered into a new contract. Neither contract is urged as a bar. Inasmuch as the contract of May 24, 1944, was entered into after Local 337's claim upon the Company, we find that it does not constitute a bar to a determination of representatives at this time.

A statement of a Field Examiner of the Board, introduced into evidence at the hearing, indicates that Local 337 represents a substantial number of employees in the unit hereinafter found to be appropriate.¹

We find that a question affecting commerce has arising concerning the representation of employees of the Company, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

¹ The Field Examiner reported that Local 337 submitted 62 authorization cards bearing the names of persons who appear on a pay roll of the Company. There are approximately 175 employees in the appropriate unit. Local 38 did not present any evidence of representation but relies upon its contract as evidence of its interest in the instant proceeding.

IV. THE APPROPRIATE UNIT

We find, in accordance with a stipulation of the parties, that all production and inside employees, drivers, helpers, maintenance men, janitors, and regular part-time employees at the two Detroit plants of the Company, excluding clerical employees, shipping and receiving clerks, syrup men, plant protection employees, casual 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 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 Detroit Coca Cola Bottling Company, Detroit, Michigan, 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 Seventh 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 Local 337, International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, A. F. of L., or by Local 38, International Union of United Brewery, Flour, Cereal and Soft Drink Workers of America, C. I. O., for the purposes of collective bargaining, or by **neither.**