

In the Matter of GATES RUBBER COMPANY, SALES DIVISION INCORPORATED and TRUCK DRIVERS, CHAUFFEURS, TEAMSTERS & HELPERS, LOCAL UNION No. 274, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA, A. F. OF L.

Case No. 21-R-2353.—Decided June 22, 1944

Mr. William L. Stratton, of Phoenix, Ariz., for the Union.

Mr. Louis Cokin, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by Truck Drivers, Chauffeurs, Teamsters, & Helpers, Local Union No. 274, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and 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 Gates Rubber Company, Sales Division Incorporated, Phoenix, Arizona, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Maurice J. Nicoson, Trial Examiner. Said hearing was held at Phoenix, Arizona, on April 28, 1944. The Union appeared at and participated in the hearing.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 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

Gates Rubber Company, Sales Division, Incorporated, is a Wyoming corporation and a wholly owned subsidiary of Gates Rubber

¹ The Company did not appear as a party but its ranking supervisory official at Phoenix, Arizona, appeared as a witness.

² 56 N. L. R. B., No. 287.

Company of Denver, Colorado. The Company is engaged in conducting various tests on synthetic automobile and truck tires at Phoenix, Arizona, for Gates Rubber Company of Denver, Colorado. The latter ships about 50 tires a month to the Company at Phoenix, each tire having an approximate value of \$500. The Company sends analyses records and worn-out portions of tires to Denver. The employees involved herein, are paid by the Company out of funds made available to it by Gates Rubber Company of Denver, Colorado. The record shows that Gates Rubber Company of Denver, Colorado, is engaged in commerce within the meaning of the National Labor Relations Act. We find that the operations of the Company at Phoenix are an integral part of the operations of Gates Rubber Company of Denver, Colorado, and thereby affect commerce within the meaning of the Act.

II. THE ORGANIZATION INVOLVED

Truck Drivers, Chauffeurs, Teamsters & Helpers, Local Union No. 274, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, 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 refuses to recognize the Union as the exclusive collective bargaining representative of its employees at Phoenix, Arizona.

A statement of the Trial Examiner, read into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found to be 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 Union urges that all drivers of trucks and cars used in the test fleet operation of the Company in Arizona, constitute an appropriate unit. The Company took no position with respect to the unit. Evidence introduced at the hearing indicates that the employees claimed by the Union constitute a well defined homogeneous group.

We find that all drivers of trucks and cars used in the test fleet operation of the Company in Arizona, excluding all supervisory em-

² The Trial Examiner reported that the Union submitted 8 application for membership cards bearing the names of persons employed by the Company. There are 11 employees in the appropriate unit

ployees 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 Gates Rubber Company, Sales Division Incorporated, Phoenix, Arizona, 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 Twenty-First Region, acting in the 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 or not they desire to be represented by Truck Drivers, Chauffeurs, Teamsters & Helpers, Local Union No. 274, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, A. F. of L., for the purposes of collective bargaining.