

IN THE MATTER OF P AND B TRANSFER AND STORAGE CO., INC. and INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA, LOCAL 667 (A. F. L.)

Case No. 15-R-1122.—Decided June 24, 1944

*Mr. James W. Wrape, of Memphis, Tenn., for the Company.
Messrs. John T. Biggers, James A. Swearingen, Lester Goings, and
Herman O. Gerig, all of Memphis, Tenn., for the Union.
Mr. Joseph C. Wells, 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 and Helpers of America, Local 667, affiliated with American Federation of Labor, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of P and B Transfer and Storage Co., Inc., Memphis, Tennessee, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Lawrence H. Whitlow, Trial Examiner. Said hearing was held at Memphis, Tennessee, on May 27, 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

P and B Transfer and Storage Co., Inc., a Tennessee corporation, is engaged principally in the storage and transfer by motor vehicle
56 N. L. R. B., No. 295.

of goods and merchandise. In correlation with its principal business, the Company packs and crates household goods, and transfers goods and merchandise between railroad depots and between consignees or consignors and railroad depots. In excess of 50 percent of the Company's revenue accrues from the handling of materials moving in interstate commerce.

The Company has its principal offices at 419 Main Street, Memphis, Tennessee, in a building which it also uses as a warehouse. All of its employees work at or out of this building or the railroad warehouse located at 119 E. Calhoun Street, Memphis, Tennessee, except for one mechanic who works at 130 E. Butler, Memphis, Tennessee, the location of the Company's garage.

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 and Helpers of America, Local 667, 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 its employees until the Union has been certified by the Board in an appropriate unit.

A statement of a Board agent, 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

The Union alleges to be appropriate a unit comprised of all employees of the Company except for clerical and supervisory employees. The Company contends that the employees should be divided into four units of drivers, helpers, checkers, and packers, respectively. The Company further contends that the one mechanic employed by the Company does not belong properly in any of these units. There is

¹The Field Examiner reported that the Union submitted 26 authorization cards; that the names of the 26 persons appearing on the cards were names of employees in the appropriate unit; that the cards were dated as follows: 10 dated February 1944, 11 dated March 1944, and 5 dated April 1944; and that there were 39 employees in the unit petitioned for

no history of collective bargaining between the Company and its employees.

Drivers operate the motor vehicles owned by the Company and load and unload these vehicles. Some of the employees, designated by the Company as helpers, help the drivers load and unload the motor vehicles, and the others are used as laborers at the warehouses to handle freight. Checkers check incoming or outgoing freight. Packers pack or crate household goods for transfer or storage. The mechanic performs maintenance and repair work on the Company's motor vehicles. Drivers are paid on a mileage or tonnage basis; helpers, packers, and the mechanic on an hourly basis; and checkers are paid a weekly salary. All of these employees are under the direct supervision of the operating executive and the secretary and treasurer of the Company.

It is apparent from the above description that all the employees in question are manual workers performing interdependent functions. We recently have approved a unit such as that here proposed, rejecting the contention that the employees should be divided among separate units comprised, respectively, of drivers, helpers and others, checkers, and mechanics.² We perceive no merit in the Company's contention, and we are of the opinion that the appropriate unit includes all drivers, helpers, checkers, packers, and the mechanic.

We find that all employees of the Company, excluding 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 National Labor Relations 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

² See *Matter of O K Storage and Transfer Company, Inc.*, 56 N. L. R. B. 1521.

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with P and B Transfer and Storage Co., Inc., Memphis, Tennessee, 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 Fifteenth 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 those employees who have since quite 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 and Helpers of America, Local 667, affiliated with the American Federation of Labor, for the purposes of collective bargaining.