

In the Matter of AGAR PACKING & PROVISION CORPORATION' and UNITED
PACKINGHOUSE WORKERS OF AMERICA, C. I. O.

Case No. 13-R-2448.—Decided July 7, 1944

Mr. David Silbert, of Chicago, Ill., for the Company.

Mr. Jesse Prosten, of Chicago, Ill., 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 United Packinghouse Workers of America, C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Agar Packing & Provision Corporation, Chicago, Illinois, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Russell Packard, Trial Examiner. Said hearing was held at Chicago, Illinois, on June 15, 1944. The Company and 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 Company moved to dismiss the petition on the ground, in substance, that the Board had failed to proceed to final disposition of Case No. 13-R-1616 involving the Company and the Union but, in lieu thereof, had granted a motion by the Union to withdraw its petition in that case.² The Trial Examiner reserved ruling thereon. The motion is hereby denied. The Company further moved that all documents referred to in its motion to dismiss be incorporated into the present record. The Trial Examiner reserved ruling thereon. The motion is hereby granted and said documents are hereby made a part of the instant proceeding. The Trial Examiner's rulings made at the hearing are free from prejudicial

¹ Although Amalgamated Meat Cutters & Butcher Workmen of North America, A. F. of L., was served with Notice of Hearing, it did not appear.

² Prior to the withdrawal of the petition in Case No. 13-R-1616, the Board had pending before it objections filed by the Union to a consent election

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

Agar Packing & Provision Corporation is a Virginia corporation operating a plant at Union Stock Yards, Chicago, Illinois, where it is engaged in slaughtering and processing hogs. During the 12-month period ending June 30, 1943, the Company purchased hogs and materials valued in excess of \$12,000,000, a substantial percentage of which was shipped to it from points outside the State of Illinois. During the same period the Company sold products valued in excess of \$16,000,000, more than 25 percent of which was 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

United Packinghouse 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 the Union as exclusive collective bargaining representative of the employees at its Union Stock Yards plant.

A statement of a Field Examiner of the Board, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found to be appropriate.³

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 hourly and piece-work production and maintenance employees at the Union Stock Yards plant of the Company, including hourly paid checkers and scalers, but excluding general office employees, truck drivers, watchmen, guards, plant clerks, timekeepers, gang checkers, weekly paid checkers and scalers, technical men, shipping clerks, hog

³ The Field Examiner reported that the Union submitted 388 authorization cards. There are approximately 1,273 employees in the appropriate unit.

buyers and their assistants, executives, superintendents, assistant superintendents, foremen, assistant foremen, and any other 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 Agar Packing & Provision Company, Chicago, 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 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 United Packinghouse Workers of America, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.