

In the Matter of ARMOUR LEATHER COMPANY and INTERNATIONAL
FUR & LEATHER WORKERS UNION, C. I. O.

Case No. 5-R-1595.—Decided July 27, 1944

Mr. James H. Herbert, of New York City, for the Company.

Mr. Hardy Scott, of Asheville, N. C., for the Union.

Mr. Robert Silagi, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE.

Upon an amended petition duly filed by International Fur & Leather Workers Union, C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Armour Leather Company, Sylva, North Carolina, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Sidney J. Barban, Trial Examiner. Said hearing was held at Sylva, North Carolina, on June 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.

At the hearing the Company moved to dismiss the petition on the ground that no evidence was adduced showing a substantial interest by the petitioner which would justify the direction of an election. Ruling on the motion was reserved for the Board. For the reasons stated in Section III, footnote 1, *infra*, the motion is hereby denied. The Trial Examiner's rulings made at the hearings 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

Armour Leather Company is a division of Armour Company, an Illinois corporation, which operates a plant at Sylva, North Carolina, and eight other plants in four other States. The instant proceeding

is concerned solely with the plant in Sylva, North Carolina, which is engaged in the processing of sole and belt leather. During the year 1943 the Company processed hides and used tanning extracts valued at over \$50,000, of which 75 percent was shipped to the plant at Sylva from points outside the State of North Carolina. During the same year the Company produced finished goods valued at approximately \$85,000, more than 95 percent of which was shipped to points outside the State of North Carolina. No direct purchases or sales were involved since the hides were originally sent to the Sylva plant from other plants of the Company for tanning, were there converted into rough tanned material; and were thereupon shipped to other plants of the Company for further processing.

We find, contrary to the contention of the Company, that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

International Fur & Leather Workers Union, affiliated with the Congress of Industrial Organizations, 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 parties agree that the unit should contain all production and maintenance employees of the Company, including part-time em-

¹ The Field Examiner reported that there were 110 employees in the unit sought by the Union and for whom the Union had submitted 98 application for membership cards. The Company contends that the Union has made an insufficient showing of present representation among the employees herein concerned and the Board should therefore dismiss the petition. The Company further contends that the Field Examiner's report is not properly in evidence, but that testimony should have been taken at the hearing for the purpose of determining whether there was a sufficient showing of interest on the part of the Union to warrant an election. We find these contentions without merit. As we have frequently stated "authorization or membership cards are required, not as a proof of the precise number of employees who desire to be represented by a labor organization, or as a basis for determining the appropriate representative, but simply to provide a reasonable safeguard against the indiscriminate institution of representation proceedings by labor organizations which might have little or no membership in the unit claimed to be appropriate"; See *Matter of H. G. Hill Stores, Inc., Warehouse*, 39 N. L. R. B. 874. This safeguard is adequately provided by a statement of the Field Examiner made upon the basis of a card check and needs no supplementation by the introduction of further evidence at the hearing.

ployees, but excluding all office clerical employees, seasonal workers, and supervisors. The parties disagree with respect to the watchmen and the shipping clerk, all of whom the Union would include and the Company exclude:

Watchmen—The Company employs two full-time watchmen and one part-time watchman. The full-time watchmen work 46 hours a week; the part-time watchman is employed as a watchman 10 hours a week, the balance of his time being devoted to maintenance work. The watchmen are not militarized and do not wear uniforms. One full-time watchman is deputized by the sheriff of the county, the others are not. A gun is available for their use and they sometimes carry it. Their duties are to protect the plant against fire, theft and trespassers. In accordance with our usual practice, we shall exclude the deputized watchman and include the two non-deputized watchmen.²

Shipping clerk—The Company has but one shipping clerk, whose duties are to weigh leather, record the weights, and help other employees to take the leather into the storage room where it is sorted into various weights. He also inspects the leather for defects as it is sorted. About once a week leather is transferred out of storage, at which time the shipping clerk weighs it out again, makes a record of the weight, and turns it into the office. The shipping clerk is under the supervision of the loft foreman and appears on the production and maintenance pay roll. The Company contends that the shipping clerk should be excluded from the unit as a clerical employee inasmuch as he spends 60 percent of his time doing clerical work. The Union, however, contends that the shipping clerk is essentially a production and maintenance employee. The shipping clerk is the only employee who performs clerical work within the plant itself. Even though he apparently devotes much of his time to clerical activities, it appears that it is spent in direct contact with the movement, inspection, weighing, and sorting of leather. The fact that the Company lists him on the production and maintenance pay roll and offers him the same conditions of employment as it does the other employees is sufficient indication that it considers him as one of the production and maintenance employees. Under these circumstances, we shall include him in the unit.³

We find that all production and maintenance employees of the Company, including the non-deputized watchmen, shipping clerk, and part-time employees; but excluding all office clerical employees, the deputized watchman, seasonal workers, and all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise

² See *Matter of Pollatch Forests, Inc.*, 52 N. L. R. B. 1377; *Matter of Parks Air College, Inc.*, 55 N. L. R. B. 1034; also *Matter of Continental Can Company (Memphis Plant)*, 55 N. L. R. B. 180.

³ See *Matter of Colonial Sugars Company, Gramercy Refinery*, 39 N. L. R. B. 417; also *Matter of Delta-Star Electric Company*, 37 N. L. R. B. 459.

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 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, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Armour Leather Company, Sylva, North Carolina, 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 Fifth 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 the 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 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 International Fur & Leather Workers Union, C. I. O., Local 365,⁴ for the purposes of collective bargaining.

CHAIRMAN MILLIS took no part in the consideration of the above Decision and Direction of Election.

⁴ A request to appear thus on the ballot is hereby granted.