

In the Matter of THE NORTHERN COAL & DOCK COMPANY, COAL PROCESSING CORPORATION, NORTH WESTERN-HANNA FUEL COMPANY, GREAT LAKES COAL & DOCK CO., PITTSBURGH COAL COMPANY OF WISCONSIN, CARNEGIE DOCK & FUEL COMPANY, THE C. REISS COAL COMPANY and UNITED STEELWORKERS OF AMERICA, C. I. O.

Cases Nos. 18-R-1004, 18-R-1005, 18-R-1007 through 18-R-1010, and 18-R-1013, respectively.—Decided July 27, 1944

Doherty, Rumble, Mitchell & Sullivan, by *Mr. Edgar G. Vaughan*, of St. Paul, Minn., for the Companies.

Mr. Paul B. Lee, of Duluth, Minn., for the Union.

Mr. Seymour J. Spelman, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon separate petitions duly filed by United Steelworkers of America, C. I. O., herein called the Union, alleging that questions affecting commerce had arisen concerning the representation of employees of The Northern Coal & Dock Company, herein called Northern, Coal Processing Corporation, herein called Coal Processing, North Western-Hanna Fuel Company, herein called Hanna, Great Lakes Coal & Dock Co., herein called Great Lakes, Pittsburgh Coal Company of Wisconsin, herein called Pittsburgh, Carnegie Dock & Fuel Company, herein called Carnegie, and The C. Reiss Coal Company, herein called Reiss, all of Superior, Wisconsin,¹ the National Labor Relations Board consolidated the cases and provided for an appropriate hearing upon due notice before Clarence A. Meter, Trial Examiner. Said hearing was held at Superior, Wisconsin, on June 20, 1944. The Companies and the Union appeared at and participated in the hearing.² All parties were afforded full opportunity

¹ The employers are hereinafter referred to collectively as the Companies.

² Coal Dock Workers Union, International Longshoremen's Association, Locals 1343 and 1328, were duly notified of the hearing and appeared, but indicated that they had no interest in the proceedings or in the employees involved and that they did not wish to intervene.

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 COMPANIES

The Northern Coal & Dock Company, Coal Processing Corporation, North Western-Hanna Fuel Company, Great Lakes Coal & Dock Co., Pittsburgh Coal Company of Wisconsin, Carnegie Dock & Fuel Company, and The C. Reiss Coal Company are severally engaged in the operation of coal-docks at Superior, Wisconsin, and, in some cases, at Duluth, Minnesota. During 1943 each of the Companies purchased at least 60,000 tons of coal or coal valued at \$1,000,000, about 95 percent in each instance being shipped to them from points outside the State of Wisconsin. During the same period each of the Companies sold at least 60,000 tons of coal or coal valued in excess of \$1,000,000, at least 45 percent of which was shipped to points outside the State of Wisconsin.

Each of the Companies concedes, and we find, that each is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

United Steelworkers of America is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

III. THE QUESTIONS CONCERNING REPRESENTATION

Each of the Companies refuses to recognize the Union as the exclusive collective bargaining representative of the watchmen and guards employed by it.

Statements of the Regional Director, introduced into evidence at the hearing, indicate that the Union represents a substantial number of employees in each of the units hereinafter found to be appropriate.³

We find that questions affecting commerce have arisen concerning the representation of employees of each of the Companies, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

³ The Regional Director reported that the Union presented membership application cards bearing the names of 2 persons employed by Northern, 2 by Coal Processing, 7 by Hanna, 3 by Great Lakes, 2 by Pittsburgh, 11 by Carnegie, and 2 by Reiss. There are approximately 2 employees in the appropriate unit at Northern, 2 at Coal Processing, 10 at Hanna, 2 at Great Lakes, 4 at Pittsburgh, 3 at Carnegie, and 2 at Reiss.

IV. THE APPROPRIATE UNITS

In each case, the Union is seeking a unit composed of all employees who perform the duties of watchmen and guards on certain dock properties of each company, excluding supervisory employees. The Companies took no position with respect to the appropriateness of the units.

The Northern Coal & Dock Company employs two watchmen (guards) at its Superior docks who make hourly rounds of the property during the night, perform janitorial work, and tend fires which provide heat for the buildings and power for dock machinery. They are deputized as special police in the city of Superior, Wisconsin, but do not wear uniforms or carry arms.

Coal Processing Corporation also employs two watchmen at its Superior docks. One is deputized as a special policeman, but neither is armed or uniformed. Their duties are to protect the property from fire and theft, and to tend fires in a boiler and brick oven.

North Western-Hanna Fuel Company employs 10 watchmen and guards, 2 at each of its 5 docks in Duluth and Superior. These employees make regular rounds of the property, and maintain fires which provide heat for the buildings and steam for cranes and other dock machinery. They do not bear arms and, at present, are not sworn in as special police.

Great Lakes Coal & Dock Co. has two guards at its Superior docks. They are deputized as special police, carry arms, but are not uniformed. They make regular rounds, and maintain fires which supply heat and provide steam for locomotive cranes and dock machinery.

Pittsburgh Coal Company of Wisconsin employs four watchmen and guards, two at each of its docks at Duluth and Superior. At each dock, one watchman is a deputy special policeman, but none of the four is armed or uniformed. They make regular rounds, and care for fires. At the Superior dock, they also perform janitorial work.

Carnegie Dock & Fuel Company employs three watchmen at its Superior dock. They are deputized as special police, bear arms, but are not uniformed. Two of the watchmen patrol the property during the night, and maintain fires. The third watchman is on duty during the daytime from 12 noon until 6 p. m., 6 days a week; he makes no regular rounds, but he has similar general duties of protecting the property from fire and theft. Although the Company took no position with respect to his inclusion in the unit, it stated that his length of tenure is, as yet, indefinite, and that he is regarded as a temporary employee. In our opinion, the facts demonstrate that he is a regular, full-time employee, and, as such, is properly within the unit comprising regular watchmen and guards. We so find.

The C. Reiss Coal Company employs two watchmen at its Superior dock. They are deputized as special police, bear arms, but are not uniformed. They patrol the property during the night and on Sundays, and perform janitorial work.

The production and maintenance employees of the Companies, except for watchmen and guards, are covered by current contracts with other labor organizations, and the Companies do not oppose the establishment of the units proposed herein. Under these circumstances, and in view of the homogeneous and functionally coherent nature of the proposed units, as disclosed by the facts recited above, we shall grant the petitions of the Union.⁴

Accordingly, we find that all watchmen and guards employed, respectively, by Northern, Coal Processing, Great Lakes, Carnegie, and Reiss, at their Superior docks, and by Hanna and Pittsburgh, at their Duluth and Superior docks, excluding 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 separate units 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 questions concerning representation which have arisen be resolved by elections by secret ballot among the employees in the appropriate units who were employed during the payroll period immediately preceding the date of the Direction of Elections herein, subject to the limitations and additions set forth in the Direction.

DIRECTION OF ELECTIONS

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 The Northern Coal & Dock Company, Coal Processing Corporation, North Western-Hanna Fuel Company, and Great Lakes Coal & Dock Co., Pittsburgh Coal Company of Wisconsin, Carnegie Dock & Fuel Company, and The C. Reiss Coal Company, elections 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

⁴ The Board often finds separate units of guards and watchmen to be appropriate. See *Matter of American Brass Co.*, 41 N. L. R. B. 783; *Matter of Phelps Dodge Copper Products Corp.*, 41 N. L. R. B. 973.

Regional Director for the Eighteenth 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 units found appropriate in Section IV, above, and set out below; 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, and further excluding all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action:

1. All watchmen and guards employed by The Northern Coal & Dock Company, at its Superior docks, to determine whether or not they desire to be represented by United Steelworkers of America, C. I. O., Local Union No. 3148, for the purposes of collective bargaining:

2. All watchmen and guards employed by Coal Processing Corporation, at its Superior docks, to determine whether or not they desire to be represented by United Steelworkers of America, C. I. O., Local Union No. 3148, for the purposes of collective bargaining.

3. All watchmen and guards employed by North Western-Hanna Fuel Company, at its Duluth and Superior docks, to determine whether or not they desire to be represented by United Steelworkers of America, C. I. O., Local Union No. 3148, for the purposes of collective bargaining.

4. All watchmen and guards employed by Great Lakes Coal & Dock Co., at its Superior docks, to determine whether or not they desire to be represented by United Steelworkers of America, C. I. O., Local Union No. 3148, for the purposes of collective bargaining:

5. All watchmen and guards employed by Pittsburgh Coal Company of Wisconsin, at its Duluth and Superior docks, to determine whether or not they desire to be represented by United Steelworkers of America, C. I. O., Local Union No. 3148, for the purposes of collective bargaining.

6. All watchmen and guards employed by Carnegie Dock & Fuel Company, at its Superior docks, to determine whether or not they desire to be represented by United Steelworkers of America, C. I. O., Local Union No. 3148, for the purposes of collective bargaining.

7. All watchmen and guards employed by The C. Reiss Company, at its Superior docks, to determine whether or not they desire to be represented by United Steelworkers of America, C. I. O., Local Union No. 3148, for the purposes of collective bargaining.