

In the Matter of ARKELL SAFETY BAG COMPANY and TRUCK DRIVERS LOCAL NO. 807 OF THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA, AFL and INTERNATIONAL BROTHERHOOD OF PULP, SULPHITE & PAPER MILL WORKERS, AFL

*Case No. 2-RE-67.—Decided August 19, 1944*

*White & Case*, by *Mr. Thomas Kiernan*, of New York City, for the Company.

*Boudin, Cohen & Glickstein*, by *Mr. Samuel Harris Cohen*, and *Mr. Thomas L. Hickey*, of New York City, for the Teamsters.

*Mr. Raymond Leon* and *Mr. Joseph Tonelli*, of New York City, for the Paper Mill Workers.

*Mrs. Augusta Spaulding*, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Arkell Safety Bag Company,<sup>1</sup> New York City, herein called the Company, alleging that a question affecting commerce had arisen concerning the representation of its employees, the National Labor Relations Board provided for an appropriate hearing upon due notice before David H. Werther, Trial Examiner. Said hearing was held at New York City, on July 10, 1944. The Company, Truck Drivers Local No. 807 of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL, herein called the Teamsters, and International Brotherhood of Pulp, Sulphite & Paper Mill Workers, AFL, herein called the Paper Mill Workers, appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine

<sup>1</sup> The petition and other formal papers were corrected at the hearing to disclose the correct name of the Company.

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.<sup>2</sup>

Upon the entire record in the case, the Board makes the following:

### FINDINGS OF FACT

#### I. THE BUSINESS OF THE COMPANY

Arkell Safety Bag Company manufactures paper products at a plant located at Brooklyn, New York. During the 12 months immediately preceding May 3, 1944, the Company purchased raw materials valued in excess of \$1,000,000, approximately 90 percent of which was shipped to its plant from sources outside the State of New York. During the same period, the Company sold products finished at its plant, valued in excess of \$1,000,000, approximately 75 percent of which was shipped to points outside the State of New York.

The Company admits that it is engaged in commerce, within the meaning of the National Labor Relations Act.

#### II. THE ORGANIZATIONS INVOLVED

Truck Drivers Local No. 807 of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

International Brotherhood of Pulp, Sulphite & Paper Mill Workers is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

#### III. THE QUESTION CONCERNING REPRESENTATION

On or about March 27, 1944, the Teamsters asked the Company for a bargaining conference and, on April 4, 1944, sent the Company a proposed agreement covering its employees. On April 21, 1944, the Paper Mill Workers asked the Company for bargaining rights. On April 24, 1944, the Company advised the organizations of the con-

<sup>2</sup> The Teamsters urges that the Board should dismiss this proceeding on the ground that a jurisdictional dispute has arisen between affiliated labor organizations which should be left for disposition to their common parent body. The instant petition was filed by the employer of the employees involved, and not by either of the competing labor organizations. Moreover, neither of the competing labor organizations has, so far as the record discloses, made any attempt during the past 6 months to refer to the parent body the determination of the jurisdictional issue between them. We proceed with our investigation in this matter not to determine the labor organization authorized by the parent body to assert jurisdiction over the type of employees involved, but rather to determine whether either of the affiliates is the exclusive representative of such employees in an appropriate bargaining unit.

fictitious claims and declined to bargain with any labor organization until it was duly certified by the Board. In May 1944, the Teamsters and the Paper Mill Workers each filed a petition for certification of representatives. On June 21, 1944, the Company filed the instant petition, and thereafter the separate petitions filed by the competing organizations were dismissed by the Regional Director.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Paper Mill Workers represents a substantial number of employees in the unit hereinafter found appropriate.<sup>3</sup>

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 Paper Mill Workers contends that production and maintenance employees at the plant constitute a single appropriate unit. The Teamsters contends that the Company's stockroom and shipping employees constitute an appropriate separate bargaining unit apart from other employees at the plant. The Company takes the general position that a single plant unit is appropriate, but prefers not to urge this contention, and submits the matter to the Board's determination.

The Company manufactures paper bags and paper products at Brooklyn, New York. The plant is an aggregate of five contiguous interconnecting buildings, separated by fire walls. Storage space for raw materials at the plant was adequate for the Company's needs until 1942, when the Company received war contracts which required it to provide additional space for raw material storage. Such space was acquired in four separate buildings, all of which are within a mile of the Company's plant. No employees of the Company are permanently assigned to the storage spaces, which are open only for the receipt or removal of goods. Raw materials are transported by trucks from transportation points to the plant or to outside storage spaces, and from the outside storage spaces to the plant, by an outside trucking firm with which the Company has a contract. The Company employs no drivers. Employees of the Company in small crews of four or five men unload the trucks and place incoming raw materials on the production floor or in storage, if not immediately needed, and later remove it from storage and distribute it about the plant in production areas as it is desired.

<sup>3</sup>The Paper Mill Workers submitted 209 cards, 174 of which bore the names of persons appearing on the Company's pay roll of May 8, 1944. Of these cards, 69 are undated, and the remaining were dated in 1944.

The Teamsters submitted 25 cards, 24 of which bore the names of persons appearing on the Company's pay roll of May 8, 1944. All cards were dated in 1944.

There are approximately 220 employees in the appropriate unit.

The Company does not segregate its operations geographically into several departments, but divides employees working among its several buildings by their functions. Employees in the same work categories are employed in the various sections in the plant. Production and maintenance employees include machine operators, folders, balers, sweepers, a printer, boiler room employees, building and machine maintenance employees, machine mechanics, clippers, storeroom employees, and the so-called shipping employees. Machine operators, engineers in charge of the boiler room, machine mechanics, and the printer are skilled employees; others are not specially skilled. The Company has a basic wage rate for unskilled labor.

Clippers, of whom the Company employs about 60, are women who clip threads and visually inspect bags for broken threads. They constitute a general labor pool from which employees may be assigned to do any work about the plant which women can perform.

Approximately 20 employees, collectively called shipping employees, constitute an unskilled labor pool for men. The term "shipping" employees is somewhat misleading, and these employees are more appropriately described as combination material handlers and supply, receiving, and shipping employees. They work in groups of 4 or 5 men. Their duties include unloading trucks of raw material at the plant or other storage places, loading trucks at storage spaces for transportation to the plant, the handling and transfer of raw materials about the plant by hand trucks to spots on the production floor where they may be needed, and loading finished products at the plant on trucks to be sent to the Company's customers. The work of these employees thus takes them to all parts of the Company's properties. Two of the shipping employees work on a night shift as does one department of machine operators. The shortage of manpower requires much overtime work from all employees, but material handlers have the greatest overtime of all employees of the Company.

Three or four stockroom employees at the plant are presently principally engaged in conveying finished products to storage space at the plant and from storage space or production floors at the plant to chutes for transportation to the shipping floor. These employees are under a separate foreman, and from time to time other employees about the plant are assigned to assist them.

The Company has an upgrading policy system. In normal times it moves, from its labor pool of unskilled male employees into direct production or maintenance mechanical work, any unskilled employee that shows an aptitude or desire for such work. Employees were commonly freely taken from this labor pool to assist in ordinary production work. For the past 2 years, however, the shortage of unskilled manual labor

has been acute. The Company's raw and finished products are bulky. This has required the Company to reverse its normal policy and lend its regular production and maintenance employees to the foreman in charge of material handling and shipping rather than to promote the latter employees into production and maintenance work. Thus it presently happens that regular production and maintenance employees are required to assist in the transfer and dispatch of raw and finished products.<sup>4</sup> The Company shifts all employees to fill in where they may be needed and are competent to serve.<sup>5</sup>

The Teamsters represents the drivers of the contractor who transports the Company's raw and finished products by truck to and from its properties and transportation terminals. The Paper Mill Workers claims no jurisdiction to represent drivers, and, as noted above, the Company employs no drivers. The Paper Mill Workers represents production and maintenance employees of paper manufacturing concerns in the New York metropolitan area in plant-wide units similar to the unit which it proposes in this proceeding. Since the Company's operations clearly indicate that a plant-wide unit is the appropriate unit for its employees and since the Paper Mill Workers has organized the Company's employees on a plant-wide basis, we find that production and maintenance employees of the Company, including shipping and stockroom employees, constitute a single plant unit.

The parties agree that the Board should exclude from any unit, or units, appropriate for the Company's employees, office and clerical employees, the shipping clerk, and supervisory employees. The parties are in disagreement with respect to the inclusion of the stockroom foreman, the shipping foreman's assistant, and the strawboss in the maintenance department. The stockroom foreman includes within his duties a considerable amount of clerical work. He is in direct charge of three employees, and earns substantially more than any one of them. He has authority to discipline employees under him and the Company credits his recommendations with respect to their work status. The shipping foremen's assistant is in charge of groups of two to five employees, whose work he directs. He spends approximately 50 percent of his time doing manual work. He earns appre-

<sup>4</sup> The waxman has the responsibility of keeping tanks which supply the crinkling machines filled with wax. When production orders specify a type of paper requiring wax, the waxman has a full-time job on the wax tanks. At other times, he is turned into the labor pool to work with crews handling raw and finished materials. All production and maintenance employees at the plant are subject to such transfer when they are not needed in the department to which they are regularly assigned.

<sup>5</sup> Crinkling machine operators, of whom there are eight, the two licensed engineers in the boiler room, the printer, and the machine mechanics are the Company's most skilled employees, and other employees cannot be transferred to take their places. Employees in the named categories may be transferred to give assistance in other operations at the plant.

ciably more than other shipping employees, and he is in charge of the shipping department in the foreman's absence. He has effective authority to recommend discipline. The strawboss in the maintenance department is in direct charge of four employees in that department and assigns their work. He earns substantially more than any one of them and has effective authority to recommend their pay increases and transfers. Since the stockroom foreman, the shipping foreman's assistant, and the strawboss in the maintenance department clearly fall within our definition of supervisory employees, we shall exclude these employees and all other supervisory employees from the appropriate unit,

We find that all production and maintenance employees of the Company including stockroom and shipping employees, but excluding office and clerical employees, shipping clerks, the stockroom foreman, the shipping foreman's assistant, the strawboss in the maintenance department, and all 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 find that the question concerning representation which has arisen may best be resolved by an election by secret ballot.

The Teamsters has substantially limited its organization among the Company's employees to employees in the stockroom and shipping department, and represents a substantial number of employees in its proposed unit. We shall provide that the Teamsters may participate in the election among employees of the Company which we shall direct, provided, however, that if the Teamsters notifies the Regional Director within five (5) days of the date of the issuance of the Decision and Direction of Election herein that it does not wish to participate in the election, its name will not appear upon the ballot. The Teamsters desires to have its full name appear upon the ballot. The Paper Mill Workers desires that it be designated upon the ballot by the name of its local, Pulp & Sulphite Workers Local 318, A. F. of L. We shall grant the requests.

Those eligible to vote in the election shall be all employees of the Company in the unit found appropriate in Section IV, above, who were employed during the pay-roll period immediately preceding the date of the Decision and 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 Arkell Safety Bag Company, New York City, 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 Second 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 they desire to be represented by Pulp & Sulphite Workers, Local 318, A. F. of L., or by Truck Drivers Local No. 807 of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL, for the purposes of collective bargaining, or by neither.

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