

In the Matter of THE HALL MOTOR FREIGHT COMPANY and INTERNATIONAL ASSOCIATION OF MACHINISTS, A. F. L.

Case No. 17-R-867.—Decided August 19, 1944

Mr. Jack Perry, of Denver, Colo., for the Company.

Mr. W. B. Jordan, of Denver, Colo., for the Union.

Mr. Philip Licari, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by International Association of Machinists, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of The Hall Motor Freight Company, Denver, Colorado, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Elmer L. Hunt, Trial Examiner. Said hearing was held at Denver, Colorado, on June 17, 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

The Hall Motor Freight Company, a Colorado corporation, with its principal place of business at Denver, Colorado, is engaged in the operation of freight trucks between Denver, Colorado, and Kansas City, Missouri. The Company has been duly licensed as a common carrier by the Interstate Commerce Commission. During the year 1943, the Company earned a gross income in excess of \$200,000, all of

which was derived from its business as a common carrier of freight between the State of Colorado and the State of Missouri.

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

II. THE ORGANIZATION INVOLVED

International Association of Machinists, 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 the Company's mechanics at the Denver plant until the Union has been certified by the Board in an appropriate unit.

A statement of a Field Examiner for the Board, 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

We find, in accordance with a stipulation by the parties, that all mechanics employed by the Company at its Denver repair shop, 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 a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.²

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 payroll period immediately preceding the date of the Direction of Election therein, subject to the limitations and additions set forth in the Direction.

¹ The Field Examiner reported that the Union submitted four authorization cards dated April 1944. He also reported that there were approximately four employees in the appropriate unit.

² At the hearing, the parties agreed to exclude from the appropriate unit the working foreman, Clarence Bergh, on the ground that he is a supervisory employee.

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 The Hall Motor Freight Company, Denver, Colorado, 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 Seventeenth 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 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 Association of Machinists, affiliated with the American Federation of Labor, for the purposes of collective bargaining.

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