

IN the Matter of THE BROWN PAPER MILL COMPANY, INC. and INTERNATIONAL BROTHERHOOD OF PULP, SULPHITE AND PAPER MILL WORKERS, AND INTERNATIONAL BROTHERHOOD OF PAPER MAKERS, AFFILIATED WITH AMERICAN FEDERATION OF LABOR

Case No. 15-R-1160.—Decided September 15, 1944

*Messrs. L. J. Benckenstein and George E. Duncan, of Beaumont, Tex., and Mr. Clyde R. Brown, of Monroe, La., for the Company.
Mr. Godfrey Ruddick, of Bogalusa, La., for the Pulp Workers.
Mr. Denver Lambert, of Bogalusa, La., for the Paper Makers.
Mr. Paul Bisgyer, of counsel to the Board.*

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a joint petition¹ duly filed by International Brotherhood of Pulp, Sulphite and Paper Mill Workers, herein called the Pulp Workers, and International Brotherhood of Paper Makers, herein called the Paper Makers, both affiliated with American Federation of Labor, alleging that a question affecting commerce had arisen concerning the representation of employees of The Brown Paper Mill Company, Inc., Monroe, Louisiana, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Laurence H. Whitlow, Trial Examiner. Said hearing was held at Monroe, Louisiana, on July 18, 1944. The Company, the Pulp Workers and the Paper Makers 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 opening and conclusion of the hearing, the Company moved to dismiss the petition on various grounds. The Trial Examiner referred the motions to the Board for determination. For reasons hereinafter appearing, the motions are denied. The Trial Examiner's rulings made at the hearing are free from prejudicial

¹ Contrary to the Company's contention, nothing in the National Labor Relations Act or the Board Rules and Regulations prohibit the filing of a joint petition for certification of representatives by two or more unions.

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 Brown Paper Mill Company, Inc., is a Delaware corporation engaged in the manufacture of Kraft paper and paper board at its plant near Monroe, Louisiana. It annually produces approximately 170,000 tons of such products, about 90 percent of which is shipped outside the State of Louisiana. Approximately 40 percent of the raw materials used in its processes comes from outside the State of Louisiana.

The Company does not deny, and we find, that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

International Brotherhood of Pulp, Sulphite and Paper Mill Workers and International Brotherhood of Paper Makers, both affiliated with the American Federation of Labor, are labor organizations admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The parties stipulated that the Pulp Workers and Paper Makers, on May 22, 1944, notified the Company by joint letter that they represented a majority of its employees, requesting that the Company meet with them for bargaining purposes, and that the Company refused unless the unions furnish certain proof of their membership and authority.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Pulp Workers and Paper Makers represent a substantial number of employees in the unit hereinafter found appropriate.²

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.

²The Field Examiner reported that the Pulp Workers and Paper Makers submitted 339 authorization cards bearing the names of persons listed on the Company's pay roll of July 1, 1944, which contained the names of 622 employees in the appropriate unit. The Company's contention that, since neither the Pulp Workers nor Paper Makers has shown that it was designated by a majority of the employees in the alleged appropriate unit the petition should be dismissed, is untenable. The record and Field Examiner's report sufficiently indicate that the unions were designated by a substantial number of employees, which is the sole requirement in this proceeding.

IV. THE APPROPRIATE UNIT

In their joint petition, the Pulp Workers and Paper Makers sought a single unit of all the Company's production and maintenance employees, excluding management personnel and office employees. At the hearing, they amended their petition and now request two separate units, one to be represented by the Pulp Workers, comprised of the Company's employees falling within its claimed jurisdiction, and the other to be represented by the Paper Makers, composed of the employees falling within its claimed jurisdiction.³ Ostensibly, this division is predicated upon the Company's allegedly separate operations, namely, the pulp mill and paper mill.⁴ More specifically, the Pulp Workers' unit would encompass the employees in the screen, digester, evaporator, recovery, press, caustic and wood rooms, and wood yard, all of which are apparently located in the pulp mill, including tour foremen or bosses, together with the powerhouse employees and the railroad crew. The Paper Makers' unit, on the other hand, would consist of the employees in the refining (Jordan) room, paper machine room, finishing and shipping departments, all of which are apparently located in the paper mill, including tour foremen or bosses, together with the storeroom clerks, locker room men, and all maintenance employees under the supervision of the master mechanic. Both unions would exclude from their respective units supervisory personnel above the rank of tour foremen or boss, clerical employees, switchboard operators, office porters, watchmen, draftsmen, safety-first director and employees, personnel director, grass cutter, plant nurse, gatehouse employees (timekeepers), land and timber inspectors, laboratory employees, paper inspectors and helpers, head machinist, storekeeper, fire chief and his helper. The Company objects to the division of its employees into two units and argues, in effect, that this will lead to confusion and uncertainty as to which bargaining unit the employees would belong. However, it does not appear that the Company is averse to establishment of a single plant-wide unit. In fact, it seems to urge in its brief, a more comprehensive unit than the combined units of both unions.

From the record, we are persuaded that a single plant-wide unit, with the exclusions hereinafter set forth, is most feasible and appropriate in the circumstances.⁵ To establish two units would create

³ The units sought do not overlap. The Company's contention that there is a jurisdictional dispute between the unions, is wholly without merit.

⁴ While the record shows that the pulp mill and paper mill perform their operations in the same building under their respective superintendents, and have the same general floor plan, it fails to disclose the precise nature of their operations.

⁵ It is significant that, the Paper Makers, in a prior proceeding, petitioned for, and the Board found to be appropriate, a single plant-wide unit of all the Company's production and maintenance employees *Matter of The Brown Paper Mill Company, Inc.*, 45 N. L. R. B. 1227, decided December 9, 1942.

anomalous situations. Thus, certain maintenance employees, such as pulp millwrights, pipe fitters and several electricians, all under the supervision of the master mechanic, would be included in the unit sought by the Paper Makers, despite the fact that they are practically permanently assigned to the pulp mill. Moreover, there are labor gangs, welders, tinsmiths, carpenters, and painters who work throughout the plant, both in the pulp mill and paper mill, and who would, nevertheless, fall into the Paper Makers' unit. Yet, the railroad crew, which not only performs functions for the pulp mill, but also "makes up the train" for the paper mill for the shipment of paper, would be included in the Pulp Workers' unit. Finally, the maintenance employees of the powerhouse and railroad would be placed in the unit requested by the Pulp Workers, and would consequently be segregated from the employees performing similar duties under the supervision of the master mechanic. In view of the foregoing, we are not convinced that a logical basis exists for dividing the Company's employees into two units.

There remains for consideration the particular composition of the unit. We approve the exclusions proposed by the unions with minor exceptions.⁶

Fire chief and his helper: They maintain the plant fire equipment in operating condition, uncover fire hazards, and assist in the training of fire-fighting crews. The Paper Makers would exclude them. Since they are under the maintenance department, and the fire chief possesses no supervisory authority, we shall include them in the unit.

Lime kiln and recovery furnace repairmen: They are under the direct supervision of the pulp mill superintendent and his assistant. It appears that they, too, do maintenance work and shall therefore be included in the unit.

Priority statistician and helper: Their duties entail checking and posting of records of material and determining whether completed orders conform to priority regulations. Since their work is of a clerical nature, they will be excluded.

Truck drivers and truck mechanic: The Company operates a few dump trucks and a town truck for transporting freight from town. The master mechanic has charge of the trucks and supervises the drivers and truck mechanic who maintains the trucks. We shall include the truck drivers and the truck mechanic.

Knife grinder: He works in the wood room under the pulp mill superintendent. Since his work is of a maintenance nature, he will be included.

⁶ Apart from the fire chief and his helper and watchmen, either the unions took no position with respect to the inclusion or exclusion of the employees hereinafter discussed, or their position was not stated on the record with clarity.

Water well maintenance men: They are under the supervision of the master mechanic and will therefore be included.

Watchmen: In view of the fact that there are no watchmen in the Company's employ, no finding will be made with respect to them.

We find that all the production and maintenance employees of the Company, including the fire chief and his helper, the lime kiln and recovery furnace repairmen, locker room men, truck drivers, truck mechanic, knife grinder, water well maintenance men, employees of the wood yard, powerhouse employees, railroad crew and storeroom clerks, but excluding clerical employees, priority statistician and his helper, switchboard operators, office porters, draftsmen, safety-first director and employees, personnel director, grass cutter, plant nurse, gatehouse employees (timekeepers), land and timber inspectors, laboratory employees, paper inspectors and helpers, head machinist, storekeeper, 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.⁷

V. THE DETERMINATION OF REPRESENTATIVES

The Pulp Workers and Paper Makers request that eligibility to vote be determined by the pay roll checked by the Field Examiner, or the pay roll of the date of the petition. We find no reason warranting departure from our well-settled rule and 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.

We shall place both unions jointly on the ballot and if they are selected by a majority of the employees voting in the election hereinafter directed, they will be jointly certified as the single representative of the employees comprising the unit.⁸

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,

⁷The evidence is not clear with respect to the supervisory status of gang pushers, including one, Harvey May, and four foremen or bosses. In the event these employees fall within our customary definition of supervisory employees, set forth above, they shall be excluded from the unit, if not, they shall be included in the unit.

⁸*Matter of Marshall Stove Company*, 57 N. L. R. B. 375

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 Brown Paper Mill Company, Inc., Monroe, Louisiana, 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 Fifteenth 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 Brotherhood of Pulp, Sulphite, and Paper Mill Workers *and* International Brotherhood of Paper Makers, both affiliated with the American Federation of Labor, jointly for the purposes of collective bargaining.