

In the Matter of NATIONAL LIME AND STONE COMPANY and UNITED
CONSTRUCTION WORKERS, UNITED MINE WORKERS OF AMERICA

Case No. 8-R-1623.—Decided October 7, 1944

Marshall, Melhorn, Wall & Bloch, by *Mr. Henry R. Bloch*, of Toledo, Ohio, and *Messrs. B. E. Emery and V. C. Lytle*, of Findlay, Ohio, for the Company.

Messrs. A. B. Sparks and John C. Christman, of Columbus, Ohio, for the Union.

Mr. Louis Cokin, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by United Construction Workers, United Mine Workers of America, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of National Lime and Stone Company, Findlay, Ohio, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before William O. Murdock, Trial Examiner. Said hearing was held at Findlay, Ohio, on September 6, 1944. The Company and the Union appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. During the course of the hearing counsel for the Company moved to dismiss the petition. The Trial Examiner reserved ruling thereon. The motion is hereby denied. 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 COMPANY

National Lime and Stone Company is an Ohio corporation with its principal offices at Findlay, Ohio. It operates plants at five cities in
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the State of Ohio where it is engaged in the manufacture of commercial and railroad stone and other lime and stone products. We are here concerned with its plant at Findlay, Ohio, where it is engaged in the manufacture of crushed limestone for use in the construction and maintenance of roads and streets and ballast for railroad tracks. During the 6-month period preceding the date of the hearing, the Company sold products from its Findlay plant valued at about \$50,000, about \$7,000 worth of which was sold to three different railroads. During the same period, the Company purchased supplies valued at about \$15,000, about \$900 of which was shipped to it from points outside the State of Ohio. The total value of finished products produced at all Ohio plants of the Company is in excess of \$500,000 annually, approximately 30 percent of which is shipped to points outside the State of Ohio.

We find, contrary to the contentions of the Company, that the Company's business at its Findlay plant affects commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

United Construction Workers, United Mine Workers of America, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company refuses to recognize the Union as the exclusive collective bargaining representative of its employees, because of doubt as to its majority status.

A statement of a Field Examiner of the Board, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found to be 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 of the parties, that all production and maintenance employees at the Findlay, Ohio, plant of the Company, excluding clerical employees, and 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.

¹ The Field Examiner reported that the Union presented 22 authorization cards. There are 28 persons in the appropriate unit.

V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by means of 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 National Lime and Stone Company, Findlay, Ohio, 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 Eighth 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 any 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 United Construction Workers, United Mine Workers of America, for the purposes of collective bargaining.

MR. GERARD D. REILLY took no part in the consideration of the above Decision and Direction of Election.