

IN the Matter of CHICAGO MILL & LUMBER COMPANY and INTERNATIONAL WOODWORKERS OF AMERICA, AFFILIATED WITH THE CONGRESS OF INDUSTRIAL ORGANIZATIONS

Case No. 15-R-1126.—Decided November 6, 1944

Messrs. R. N. Ware and Paul R. Schwartz, of Tallulah, La., for the Company.

Mr. John Hawkins, of Memphis, Tenn., Mr. George Brown, of Portland, Ore., and Mr. W. W. Snook, of Vicksburg, Miss., for the Woodworkers.

Mr. Charles F. Mendenhall, of Little Rock, Ark., for Local 3069.

Mrs. Augusta Spaulding, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

Upon a petition duly filed by International Woodworkers of America, affiliated with the Congress of Industrial Organizations, herein called the Woodworkers, alleging that a question affecting commerce had arisen concerning the representation of employees of Chicago Mill & Lumber Company, Tallulah, Louisiana, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Leroy Marceau, Trial Examiner. Said hearing was held at Tallulah, Louisiana, on September 11, 1944. The Company, the Woodworkers, and Local No. 3069, Carpenters & Joiners of America, affiliated with the American Federation of Labor, herein called Local 3069, appeared, participated, and 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 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

Chicago Mill & Lumber Company is a Delaware corporation, having its principal place of business at Chicago, Illinois. The Company

operates a mill at Tallulah, Louisiana, the only plant involved in this proceeding, where it manufactures lumber, veneer, boxes, plywood, and logs. Less than 1 percent of the timber used at the mill is received from points outside the State. Approximately 90 percent of the products finished at the mill is shipped to points outside the State. The Company's products are valued in excess of \$100,000 per year.

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

II. THE ORGANIZATIONS INVOLVED

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

Local No. 3069, Carpenters & Joiners of America, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE ALLEGED QUESTION CONCERNING REPRESENTATION

On April 10, 1944, the Woodworkers filed its petition in this proceeding. The Company, advised of the Woodworkers' claim to represent its employees at Tallulah, declined, in the absence of certification by the Board, to accord recognition to the Woodworkers, on the ground that a contract between the Company and Local 3069 constituted a bar thereto.

As a result of a petition for investigation filed on November 6, 1942, in Case No. 15-R-874, a prior representation proceeding involving the Company's employees at Tallulah, and an agreement for an election subsequently made by the interested parties, the Board, in January 1943, conducted a consent election to determine whether the employees desired to be represented by the Woodworkers, or by Local 3069, or by neither, for the purposes of collective bargaining. Local 3069 won the election and on April 23, 1943, entered into an exclusive bargaining contract with the Company covering the employees concerned. With respect to its duration, the contract provided in substance (1) that the provisions as to the wage scale should continue in force unchanged for 90 days, and thereafter for successive 90-day periods, subject, however, to change upon 30 days' notice prior to the termination of any such period; and (2) that provisions as to all working conditions other than wages should remain in force for 1 year subsequent to the execution of the contract, and thereafter from year to year, subject, however, to termination upon 30 days' notice prior to the close of any such period. On March 24, 1944, Local 3069 gave notice to the Company of its desire to negotiate a wage increase, but neither of the parties, on or before March 24, 1944 gave notice to

the other of any desire to change other working conditions at the mill.¹ Under these circumstances, the Company and Local 3069 contend that the contract of April 23, 1943, became automatically renewed on March 24, 1944, or 30 days prior to April 23, 1944, and, as renewed, constitutes, under the *Mill B* doctrine,² a bar to a determination of representatives before the close of a second contract year.

The Woodworkers contends, however, that Local 3069 is not presently functioning as an active labor organization representing the Company's employees; that the employees thus have no bargaining representative to enforce a contract; and that, under these circumstances, the contract above noted, even though automatically renewed by failure of either party thereto to give due notice, does not constitute a bar to a present determination of representatives.³ Local 3069 denies that it has ceased to exist or to function as the bargaining representative of the Company's employees.

There is evidence in the record which gives color to the contention of the Woodworkers. Thus, there are approximately 600 employees working at the Company's mill, of whom two-thirds are colored and one-third white. Local 3069 receives colored and white employees into its membership, but such employees in 1943 regularly met separately for union meetings. White employees discontinued the holding of meetings early in 1944. Colored employees, who obtained as a meeting place a church for colored people near the mill, continued to meet and, on occasion, white employees attended their meetings. How frequently such meetings were held is not at all clear from the record. The financial secretary, a former employee of the Company and the pastor of the church rented for the meetings, testified to the effect that they were held regularly on the first and third Thursday evenings of each month. This testimony was denied by other witnesses. On June 1, 1944, however, at the appointed time and place for a regular meeting, approximately eight colored and three white employees met at the church and signed a resolution which they submitted to the Company, declaring that Local 3069 had ceased to exist as a bargaining representative capable of acting for the Company's employees and expressly repudiating that agency as their bargaining representative. No announcement or other publicity was given to the meeting designed to

¹ The reopening of a wage provision in a contract does not in itself reopen an entire contract, nor prevent it from operating as a bar, where such changes in wages, aside from the more stable working conditions of employment, were contemplated by the contracting parties. *Matter of Green Bay Drop Forge Company*, 57 N. L. R. B. 220. In the instant case, as in the cited case, the record does not disclose that the employer was notified of a claim of a rival organization prior to the automatic renewal date of the contract.

² *Matter of Mill B, Inc.*, 40 N. L. R. B. 346.

³ The Board has consistently held that where there is a substantial question as to a continued existence of the contracting labor organization, the contract is not a bar. *Matter of Morrison Steel Products, Inc.*, 50 N. L. R. B. 72, 74.

serve so fundamental a purpose. Local 3069 held other meetings subsequent to this time. The evidence discloses that Local 3069 has never handled any grievance for any employee since the contract was executed. There is, however, nothing in the record to indicate that the Company has failed to perform the terms of its contract with Local 3069, and there is no indication that there are outstanding grievances awaiting adjustment. An acting president, a financial secretary, and a recording secretary are presently functioning as officers of Local 3069. Although the two first mentioned officers severed their employment with the Company in 1943, and the record does not otherwise indicate that non-employees of the Company are generally entitled to membership therein, there is nothing in the constitution or rules of the contracting union to prevent such persons from functioning as its officers. In April 1943, approximately 94 employees authorized a check-off of union dues from their wages. In August 1944, Local 3069 received from the Company a check for the dues of 30 such members and, from 12 employee members directly, their dues in cash. Local 3069 secured a wage increase for the Company's employees when it entered into the original contract with the Company in April 1943, and further adjustment of wages in January 1944, and it started negotiations for a further increase in March 1944, which were interrupted by the filing of the petition herein. The charter of Local 3069 has not been revoked by its parent organization. No change in affiliation was voted by its membership. Employees have not shifted their membership from Local 3069 to the Woodworkers as result of any wholesale transfer of allegiance.⁴ Under these circumstances, we are not persuaded that Local 3069 has ceased to function as a labor organization capable of enforcing its contract with the Company.⁵ The present contract term extends to April 23, 1945, and is subject to automatic renewal unless appropriate notice is given 30 days prior to this expiration date. We shall, therefore, dismiss the petition filed herein, but without prejudice to the right of the petitioner to file a new petition in due season.

Upon the basis of the above facts, and upon the entire record herein, we find that no question affecting commerce has arisen concerning the representation of employees of the Company, within the meaning of Section 9 (c) of the Act.

⁴ There are approximately 600 employees at the mill. In January 1943, 487 employees voted for Local 3069. In support of its claim presently to represent the Company's employees, the Woodworkers submitted 285 cards, dated in March and April 1944, bearing names of employees on the pay roll of April 26, 1944. At the hearing the Woodworkers submitted an additional 50 cards, dated on and after April 30, 1944, purporting to bear the signatures of the Company's employees. These cards were not checked against any pay roll.

⁵ *Matter of New York Central Iron Works*, 56 N. L. R. B. 812.

ORDER

Upon the basis of the foregoing findings of fact, the National Labor Relations Board hereby orders that the petition for investigation and certification of representatives of employees of Chicago Mill & Lumber Company, Tallulah, Louisiana, filed by International Woodworkers of America, C. I. O., be, and it hereby is, dismissed, without prejudice to the latter's right seasonably to file a new petition.

MR. JOHN M. HOUSTON took no part in the consideration of the above Decision and Order.