

In the Matter of IOWA PACKING COMPANY and BROTHERHOOD OF PACKING HOUSE WORKERS, LOCAL NO. 56-A

Case No. 18-R-1045.—Decided November 7, 1944

Messrs. E. L. Crain and J. L. Fike, of Chicago, Ill., for the Company.

Mr. Don Mahon, of Des Moines, Iowa, for the Union.

Miss Ruth Rusch, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Brotherhood of Packing House Workers, Local No. 56-A, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Iowa Packing Company, Des Moines, Iowa, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before William J. Scott, Trial Examiner. Said hearing was held at Des Moines, Iowa, on October 6, 1944. The Company and the Union appeared and participated.¹ 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 hearing, the Company moved to dismiss the Union's petition on the ground that plant-protection employees are a part of management. The Trial Examiner reserved ruling on the Company's motion for the Board's determination. For reasons stated in Section IV, *infra*, the Company's 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 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 Company, a division of Swift & Company, which is an Illinois corporation, is engaged in the business of purchasing, slaughtering,

¹ The United Packinghouse Workers of America, C. I. O., which represents the Company's production and maintenance employees, was also served with notice, but did not appear at the hearing.

and processing of hogs, cattle, and sheep. During 1943, the Company purchased almost all of its livestock within the State of Iowa. The purchases for that period amounted to more than \$25,000,000 in value. The Company shipped approximately 80 percent of its products to points outside the State of Iowa and its sales amounted to more than \$25,000,000 during the past year.

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

II. THE ORGANIZATION INVOLVED

Brotherhood of Packing House Workers, Local No. 56-A, 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 its plant-protection employees until the Union has been certified by the Board in an appropriate unit.

A statement of a Field Examiner, introduced into evidence at the hearing, indicates that the Union represents 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.

IV. THE APPROPRIATE UNIT

The Union seeks to represent the Company's plant-protection employees. The Company contends that plant-protection employees are a part of management and as such, they have no right to collective bargaining. Since, as the Company concedes, its position is contrary to the Board's established policy, we have denied the Company's motion to dismiss the petition.

There is no dispute as to the composition of the unit consisting of the usual plant-protection employees³ with the exception of two employees, one of whom is a temporary watchman and the other a fire marshal.⁴

² The Field Examiner reported that the Union submitted application-for-membership cards, 10 of which bore the names of persons appearing on the Company's pay roll of June 20, 1944. There are approximately 14 employees in the appropriate unit. The cards were dated in June 1944.

³ The plant-protection employees include watchmen, clock pullers, uniformed police, and guards. They are no longer militarized, though they are all deputized with the exception of the two new employees.

⁴ These two employees are Ray Anderson and Fred Wagner.

The employee who is working as a watchman temporarily, is a foreman who has been ill for some time and who has continued to work at his foreman's rate of pay until he is able to resume his former duties. This individual has been a watchman for more than 6 months and it is uncertain when his health will permit him to return to his position as foreman. Since he is presently working regularly as a plant-protection employee, we shall include him in the unit as such.

The fire marshal is a one-man department. It is his duty to organize the fire brigade and inspect the sprinkling system and the fire equipment. Although the evidence discloses that he is under the direct supervision of the plant superintendent, he works in close association with the plant-protection employees. In view of the foregoing facts, we shall include the fire marshal in the unit. We shall exclude the chief of police, Jerry Hull, due to his supervisory authority.

We find that all plant-protection employees of the Company, including all watchmen, clock-pullers, police guards, and fire marshal, but excluding the chief of police 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 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. In accordance with the request made by the Union at the hearing, we shall designate it on the ballot as Independent Brotherhood of Packing House Workers, Local No. 56-A.

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 Iowa Packing Company, Des Moines, Iowa, 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 Eighteenth 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 Independent Brotherhood of Packing House Workers, Local No. 56-A, for the purposes of collective bargaining.