

In the Matter of BROWN AND COMPANY, BROWN STEAMSHIP COMPANY,
AND SHASTA STEAMSHIP COMPANY, INC. and NATIONAL MARITIME
UNION OF AMERICA, C. I. O.

Case No. 3-R-895.—Decided November 15, 1944

Richards and Coffey by *Mr. Laurence E. Coffey*, of Buffalo, N. Y.,
for the Companies.

Messrs. William L. Standard and *Herman Rosenfeld*, of New York
City, 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 National Maritime Union of America, C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Brown and Company, Brown Steamship Company, and Shasta Steamship Company, Inc., Buffalo, New York, herein called the Companies, the National Labor Relations Board provided for an appropriate hearing upon due notice before Peter J. Crotty, Trial Examiner. Said hearing was held at Buffalo, New York, on November 3, 1944. The Companies 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. 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. The Companies' request that the petition be dismissed is denied.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANIES

Brown Steamship Company is a New York corporation with its principal place of business at Buffalo, New York. It owns the steam-

ers "J. J. H. Brown" and "James M. McAlpine" which are bulk lake freighters engaged in transporting iron ore, coal, grain, and limestone between various ports on all of the Great Lakes.

Shasta Steamship Company, Inc., is a New York corporation with its principal place of business at Buffalo, New York. It owns the steamship "Shasta" which is a bulk lake freighter engaged in transporting iron ore, grain, and limestone between various ports on all of the Great Lakes.

Brown and Company is a New York corporation with its principal place of business at Buffalo, New York. It operates the three aforementioned bulk lake freighters as agent for Brown Steamship Company and Shasta Steamship Company, Inc. Brown and Company negotiates contracts for the other two companies and hires personnel for them.

We find that the Companies are engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

National Maritime Union of America is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Companies refuse to recognize the Union as the exclusive collective bargaining representative of their unlicensed personnel until such time as the Union is certified by the Board.

Statements of a Field Examiner of the Board, introduced into evidence at the hearing, indicate 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 Companies, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

IV. THE APPROPRIATE UNIT

The Union urges that all unlicensed personnel of the Companies constitute an appropriate bargaining unit. The Companies contend that Brown and Company is not an employer of any persons involved herein and, therefore, should not be joined in any unit finding. In addition, the Companies would exclude the stewards from the unit.

As stated hereinabove, Brown and Company is vessel agent for

¹ The Field Examiner reported that the Union submitted 48 membership application cards bearing the names of persons who appear on the October 15, 1944, pay roll of the Companies. There are approximately 71 employees in the appropriate unit.

the other two employers, negotiates contracts for each of them, and hires personnel for the freighters involved. The Companies maintain a common office at Buffalo, New York, and each of them has the same president. We conclude that the employees involved herein are also employees of Brown and Company because of the controls exercised over them by it.

Unlicensed personnel in the maritime industry is divided into three general divisions, the deck department, engine department, and steward's department. On small freighters, such as here involved, the steward's department consists of a steward, a second cook, and two or three porters. The steward is in charge of the employees in his department, handles the procurement of such employees when it is necessary to hire them, and makes recommendations relative to their tenure and discharge. His principal duty on a freighter is to prepare all meals for the crew. He also has charge of the purchasing of food, galley supplies, and linens. It is true that stewards exercise substantial supervisory authority within the meaning of the Board's usual definition. Nevertheless, for the reasons stated in *Matter of Midland Steamship Line, Inc.*,² wherein we considered the same issue, we shall include the stewards in the appropriate unit.

We find that all unlicensed personnel of the Companies, including stewards, constitute a single 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 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 Brown and Company, Brown Steamship Company, and Shasta Steamship Company, Inc., Buffalo, New York, an election by secret ballot shall be

² 53 N. L. R. B. 727; see also *Matter of Cleveland Cliffs Iron Company (Marine Department)*, 58 N. L. R. B. 708.

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 Third 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 National Maritime Union of America, C. I. O., for the purposes of collective bargaining.