

In the Matter of PEOPLES LIFE INSURANCE COMPANY and INDUSTRIAL
AND ORDINARY INSURANCE AGENTS' UNION No. 23316, AFL

No. 5-R-1500.—Decided November 22, 1944

Messrs. Austin F. Canfield and Joseph F. Castiello, of Washington, D. C., for the Company.

Messrs. Herbert S. Thatcher and George L. Russ, of Washington, D. C., for the Union.

Mr. Ben Grodsky, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Industrial and Ordinary Insurance Agents' Union No. 23316, AFL, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Peoples Life Insurance Company, Washington, D. C., herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before George L. Weasler, Trial Examiner. Said hearing was held at Washington, D. C., on September 12, 1944. The Company and the Union 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. 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. During the course of the hearing the Company moved that the petition be dismissed on the ground that the unit sought by the Union was inappropriate. For the reasons discussed in Section IV, below, this motion is denied.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Peoples Life Insurance Company, incorporated in the District of Columbia, maintains its home office in Washington, D. C. It is engaged in the business of life insurance. Its principal office is at 59 N. L. R. B., No. 87.

gaged in the business of insuring the lives of its policyholders. In the operation of its business the Company maintains 30 branch offices and 25 suboffices in the States of Maryland, Virginia, West Virginia, Delaware, and in the District of Columbia. The Company employs approximately 150 people at its home office and approximately 800 in its field offices. Of the 800 in the field offices, approximately 92 employees are employed in District #1 and District #2 offices in Washington, D. C., involved in this proceeding. The Company's assets total approximately \$15,000,000, which consist largely of cash, mortgages and real estate, and which assets are maintained by the Company in accordance with various State laws to meet policy reserves. The Company has approximately 900,000 policies in force with a total face value of approximately \$235,000,000.

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

II. THE ORGANIZATION INVOLVED

Industrial and Ordinary Insurance Agents' Union No. 23316, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On or about January 31, 1944, George L. Russ, president of the Industrial and Ordinary Insurance Agents Council, advised the Company that the Union was filing a petition for investigation and certification of representatives for agents and superintendents employed by Peoples Life Insurance Company in District #1 and District #2 offices in Washington, D. C. The Company replied that it did not believe that the unit sought was appropriate and that the Union would first have to be certified by the Board before the Company would recognize it as the sole and exclusive bargaining representative of the employees in question.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found 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.

¹The Field Examiner reported that the Union submitted 73 dues-paying membership cards, all of which bore the names of persons listed on the Company's pay roll which contained the names of 79 employees in the alleged appropriate unit. The Field Examiner further reported that the number of superintendents in the unit petitioned for, included 8 in District #1 and 4 in District #2 and that, of these groups, the Union had 7 and 2 dues-paying members respectively.

IV. THE APPROPRIATE UNIT

The Union seeks a unit consisting of all industrial agents and superintendents employed in the Company's District #1 and District #2 offices in Washington, D. C., excluding cashiers, home office field representatives, clerical employees, and district office managers. The Company's position is that the petition should be dismissed because the unit sought is inappropriate inasmuch as it includes superintendents who, the Company contends, are a part of management.

The official in charge in each district office is the district office manager. Directly below him are the superintendents, each of whom has a staff of about six or seven industrial agents. While all powers to hire and discharge are vested in the district office manager, we are persuaded from the record that the superintendents have effective power to recommend both hiring and discharging of agents on their staffs. Consequently, they fall within the meaning of our usual definition of supervisory employees and we shall exclude them.

The Company and the Union agree to the inclusion of May, an inspector. We shall include him. In addition, the Union indicates that Tally, the office debit superintendent, and Duncan, the special ordinary superintendent, should be included or excluded in accordance with the Board's determination concerning superintendents, and the Company urges the exclusion of these employees. Since we have excluded superintendents, we shall also exclude the office debit superintendent and the special ordinary superintendent.

The Company has only two field offices in the District of Columbia, designated as District #1 and District #2 offices. As indicated in *Matter of Life Insurance Company of Virginia*,² we are of the opinion that organization of insurance agents throughout the District of Columbia is comparable to organization on a State-wide basis and, accordingly, a unit of agents coextensive with such organization is appropriate.

We find that all industrial agents employed in the District #1 and District #2 offices of the Company in Washington, D. C., including the inspector, but excluding cashiers, home office field representatives, clerical employees, the office debit superintendent, the special ordinary superintendent, superintendents, district office managers, 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.

² 57 N. L. R. B. 279.

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.

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 Peoples Life Insurance Company, Washington, D. C., 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 Fifth 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 Industrial and Ordinary Insurance Agents' Union No. 23316, AFL, for the purposes of collective bargaining.

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