

In the Matter of SOUTHWESTERN MOTOR CARRIERS CORP. and BROTHERHOOD OF RAILROAD TRAINMEN

*Case No. 16-R-1065.—Decided November 29, 1944*

*Mr. Harold E. Mueller, of Fort Worth, Tex., for the Company.  
Messrs. F. K. Fisk and Harlan Bell, of Oklahoma City, Okla., for the Union.*

*Mr. Harry Nathanson, of counsel to the Board.*

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Brotherhood of Railroad Trainmen, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Southwestern Motor Carriers Corp., Oklahoma City, Oklahoma, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Glen L. Moller, Trial Examiner. Said hearing was held at Oklahoma City, Oklahoma, on October 26, 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.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Southwestern Motor Carriers Corp. is an Oklahoma corporation with its office and principal place of business in Oklahoma City, Oklahoma. Under the name of Southwestern Trailways it is engaged in transporting by motor vehicle persons, property, and United States mail between various termini in the States of Oklahoma and Texas. The Company's monthly income from the transportation of passengers

and freight across interstate lines is approximately \$50,000. For the same period the Company's income from intrastate business is equal to its income derived from interstate business.

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

## II. THE ORGANIZATION INVOLVED

Brotherhood of Railroad Trainmen 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 certain of its employees until the Union has been certified by the Board in an appropriate unit.

A statement of the Field Examiner, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found appropriate.<sup>1</sup>

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 desires a unit consisting of all the Company's bus drivers, excluding part-time drivers, the mail route station wagon driver, the master driver, maintenance employees, clerks, and supervisory employees. The Company agrees that the unit sought is appropriate, but contends that the mail route station wagon driver and the master driver should be included.

*Mail route station wagon driver:* This employee carries mail and passengers in a station wagon over one of the Company's authorized routes. Although he is not on the seniority roster, he is paid on a mileage basis, the same basis upon which main route drivers are paid, and does the same work, wears the same uniform and keeps the same reports as other drivers. All his duties and responsibilities are the same as those of other drivers. We shall include him.

*Master driver:* This employee was given the title of master driver by reason of the fact that, for a period of several months, he spent a major portion of his time instructing new drivers in the operation of busses. He is now a full-time driver earning the same wages and performing the same duties as other drivers. He is on the seniority roster. He has no power to discipline, hire, or discharge employees,

<sup>1</sup> The Field Examiner reported that the Union submitted 39 authorization cards bearing apparently genuine original signatures and that there were 60 full-time and 2 part-time employees in the alleged appropriate unit.

nor can he make recommendations affecting their status. We shall include him.

We find that all the Company's bus drivers, including the mail route station wagon driver and the master driver, but excluding part-time drivers, maintenance employees, clerks, 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.

#### 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 Southwestern Motor Carriers Corp., Oklahoma City, Oklahoma, 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 Sixteenth 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 Brotherhood of Railroad Trainmen, for the purposes of collective bargaining.