

In the Matter of HERRICK REFRIGERATOR AND COLD STORAGE COMPANY
and UNITED FARM EQUIPMENT AND METAL WORKERS OF AMERICA,
C. I. O.

Case No. 18-R-1143.—Decided December 14, 1944

*Mr. George E. Pike, of Waterloo, Iowa, for the Company.
Meyers & Meyers, by Mr. Hart E. Baker, of Chicago, Ill., and Mr.
Charles W. Hobbie, of Cedar Rapids, Iowa, for the C. I. O.
Mr. Thomas J. Kirkwood, of Dubuque, Iowa, for the A. F. of L.
Mr. Louis Cokin, of counsel to the Board.*

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by United Farm Equipment and Metal Workers of America, C. I. O., herein called the C. I. O., alleging that a question affecting commerce had arisen concerning the representation of employees of Herrick Refrigerator and Cold Storage Company, Waterloo, Iowa, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Stephen M. Reynolds, Trial Examiner. Said hearing was held at Waterloo, Iowa, on November 29, 1944. At the commencement of the hearing, the Trial Examiner granted a motion of United Brotherhood of Carpenters and Joiners of America, Millmen's Local Union No. 922, A. F. of L., herein called the A. F. of L., to intervene. The Company, the C. I. O., and the A. F. of L. appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. During the course of the hearing the C. I. O. moved to deny a place on the ballot to the A. F. of L. The Trial Examiner reserved ruling thereon. The 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 opportunity to file briefs with the Board.

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

59 N. L. R. B., No. 185.

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Herrick Refrigerator and Cold Storage Company is an Iowa corporation engaged in the manufacture of domestic and commercial refrigerators at Waterloo, Iowa. The Company purchases about 75 percent of the raw materials used by it from points outside the State of Iowa. It sells products valued in excess of \$300,000 annually, about 25 percent of which is shipped to points outside the State of Iowa.

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

II. THE ORGANIZATIONS INVOLVED

United Farm Equipment and Metal Workers of America is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

United Brotherhood of Carpenters and Joiners of America, Millmen's Local Union No. 922, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On October 18, 1944, the C. I. O. requested the Company to recognize it as the exclusive collective bargaining representative of the Company's employees. The Company refused this request until such time as the C. I. O. is certified by the Board.

A statement of a Field Examiner of the Board, introduced into evidence at the hearing, indicates that the C. I. O. 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 Company, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

IV. THE APPROPRIATE UNIT

We find, in agreement with a stipulation of the parties, that all production and maintenance employees of the Company, including working foremen and shipping clerks, but excluding office and factory clerical employees, truck drivers, executives, general supervisor and

¹ The Field Examiner reported that the C. I. O. presented 41 application-for-membership cards bearing names of persons on the November 1, 1944, pay roll of the Company. There are approximately 103 employees in the appropriate unit. The Trial Examiner reported that the A. F. of L. presented 10 authorization cards bearing the names of persons on the November 1, 1944, pay roll of the Company.

production man, 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 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.

We find, in accordance with the desires of the parties, that casual or temporary part-time employees are ineligible to vote in the election.

The C. I. O. contends that the A. F. of L. should not be accorded a place on the ballot. Inasmuch as an election is to be directed and the A. F. of L. has made some showing of representation we shall place it on the ballot.

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 Herrick Refrigerator and Cold Storage Company, Waterloo, 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 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 they desire

to be represented by United Farm Equipment and Metal Workers of America, C. I. O., or by United Brotherhood of Carpenters and Joiners of America, Millmen's Local Union No. 922, A. F. of L., for the purposes of collective bargaining, or by neither.