

In the Matter of ALLIED LABORATORIES, INC. (PITMAN-MOORE DIVISION) and AMERICAN FEDERATION OF LABOR

Case No. 9-R-1585.—Decided January 8, 1945

Mr. Carl Wilde, of Indianapolis, Ind., for the Company.
Mr. Hobert Autterson, of Indianapolis, Ind., for the A. F. L.
Mr. William T. Miller, of Indianapolis, Ind., for the Independent.
Mr. David V. Easton, of counsel to the Board.

DECISION
AND
ORDER

STATEMENT OF THE CASE

Upon petition duly filed by American Federation of Labor, herein called the A. F. L., alleging that a question affecting commerce had arisen concerning the representation of employees of Allied Laboratories, Inc. (Pitman-Moore Division), Zionsville, Indiana, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before R. N. Denham, Trial Examiner. Said hearing was held at Indianapolis, Indiana, on November 6, 1944. The Company, the A. F. L.,¹ and the Pitman-Moore Employees Independent Union, herein called the Independent appeared, participated, and 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 filed an "Answer," in which it requested dismissal of the A. F. L.'s petition. This request is construed as a motion to dismiss, and as such, for reasons stated in Section IV, *infra*, is granted. 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.

¹ Subsequent to the filing of the petition in this proceeding, the American Federation of Labor chartered Federal Labor Union No. 23751, herein referred to as the Federal.

59 N. L. R. B., No. 273.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Allied Laboratories, Inc., is a Delaware corporation with its principal office located in Kansas City, Missouri. The Company operates plants located in the States of Missouri, Iowa, South Dakota, and Indiana. We are concerned herein with the Company's operations at its plant located at Zionsville and Indianapolis, Indiana, known as the Pitman-Moore Division, where it is engaged in the manufacture of pharmaceutical and biological products. During the year 1943, the Company obtained more than 50 percent of the raw materials used by said plants, consisting principally of crude drugs, chemicals, sugar alcohol and animals, from points outside the State of Indiana. During the same period, these plants produced items valued at more than \$500,000, of which 80 percent was shipped to points outside the State of Indiana.

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

II. THE ORGANIZATIONS INVOLVED

American Federation of Labor and its affiliate, Federal Labor Union No. 23751, are labor organizations, admitting to membership employees of the Company.

Pitman-Moore Employees' Independent Union is an unaffiliated labor organization, admitting to membership employees of the Company.

III. THE ALLEGED APPROPRIATE UNIT

The A. F. L. seeks a unit comprised of all production and maintenance employees, including working foremen, at the Company's Zionsville, Indiana, plant, but excluding supervisory employees, within the meaning of the Board's customary definition. Neither the Company nor the Independent disputes the propriety of the classifications included within the proposed unit. However, both contend that the proper unit is one which includes the production and maintenance employees of both the Indianapolis and the Zionsville plants.

On April 25, 1940, the Board directed separate elections among the production and maintenance employees of the Company engaged at its Indianapolis and Zionsville plants.² In its decision, the Board found that the two plants might properly be considered either as two

² *Matter of Allied Laboratories, Inc. (Pitman-Moore Division)*, 23 N. L. R. B. 184.

separate bargaining units or as a single one, and stated therein that "Under the circumstances, we will be guided by the desires of the employees themselves . . . If the Independent receives a majority of the votes cast by the employees of each of the plants, both plants will constitute a single appropriate unit." At the elections conducted pursuant to the Board's Direction, the Independent received a majority of the ballots cast by the employees at each plant. The Board consequently found on July 5, 1940, that the employees of both plants constituted a single appropriate unit and it certified the Independent as the collective bargaining representative of such employees.³

Since that time, the Company and the Independent have conducted collective bargaining relations pursuant to a series of yearly contracts. All covered the production and maintenance employees at both Indiana plants, and the last, dated November 15, 1943, expired on November 15, 1944. It appears that, only comparatively recently, certain employees of the Zionsville plant signed A. F. L. designations.⁴

In view of the foregoing circumstances, particularly our prior unit finding, determined to a large extent by the desires of the employees themselves, and the history of collective bargaining which was predicated upon it, we are of the opinion that a unit confined solely to the employees of the Zionsville plant is inappropriate.⁵

IV. THE ALLEGED QUESTION CONCERNING REPRESENTATION

Since, as indicated in Section III, *supra*, the bargaining unit sought by the A. F. L. is inappropriate for the purposes of collective bargaining, we find that no question affecting commerce has arisen concerning the representation of employees of the Company in an appropriate unit. Accordingly, we shall dismiss the petition.

ORDER

Upon the basis of the above findings of fact, the National Labor Relations Board hereby orders that the petition for investigation and certification of representatives of employees of Allied Laboratories, Inc. (Pitman-Moore Division), Zionsville, Indiana, filed by American Federation of Labor, be, and it hereby is, dismissed.

³ *Matter of Allied Laboratories, Inc. (Pitman-Moore Division)*, 25 N. L. R. B. 164.

⁴ The Field Examiner's report, introduced into evidence, indicates that 62 of the 65 valid designations submitted by the A. F. L. are dated August 1944, the remaining 3 are undated, and there are approximately 115 employees in the alleged appropriate unit.

⁵ Cf. *Matter of Reed Roller Bit Company*, 58 N. L. R. B. 488.