

In the Matter of GENERAL CHEMICAL DIVISION, ALLIED CHEMICAL AND DYE CORPORATION, EMPLOYER *and* UNITED ASSOCIATION OF JOURNEMEN AND APPRENTICES OF THE PLUMBING AND PIPEFITTING INDUSTRY OF THE UNITED STATES AND CANADA, LEAD BURNERS, LOCAL 532, A. F. L., PETITIONER

Case No. 4-RC-28.—Decided July 21, 1948

DECISION
AND
DIRECTION OF ELECTION

Upon a petition filed a hearing was held before a hearing officer of the National Labor Relations Board. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.¹

Pursuant to the provisions of Section 3 (b) of the National Labor Relations Act, the Board has delegated its powers in connection with this case to a three-man panel consisting of the undersigned Board Members.*

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the National Labor Relations Act.
2. The labor organizations named below claim to represent employees of the Employer.
3. A question of representation exists concerning the representation of employees of the Employer, within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act.

¹ The hearing officer, in accord with our usual practice, prevented inquiry into the question of the Petitioner's compliance with Section 9 (f), (g), and (h) of the Act. We find no merit in the Employer's contention that the petition should be dismissed because the record does not affirmatively show the Petitioner's compliance. *Matter of Elgin-Butler Brick Company*, 77 N. L. R. B. 435; *Matter of Lion Oil Company*, 76 N. L. R. B. 656. Our investigation shows that the Petitioner is in compliance. The Employer also contends that the petition should be dismissed, alleging that the employees involved herein do not wish to be represented by the Petitioner. We find no merit in this contention. A *prima facie* showing of representation has been made by the Petitioner. Subsequent repudiation of such authorization does not constitute grounds for dismissal, the desires of the employees respecting representation can best be resolved by an election by secret ballot. *Matter of Jefferson Island Salt Mining Company*, 67 N. L. R. B. 1282, 1284.

*Houston, Reynolds, and Gray.

4. The Petitioner seeks a single unit of all lead burners and apprentice lead burners at the Employer's Delaware Works and Baker and Adamson Works, excluding helpers and supervisors.² In the alternative the Petitioner requests separate units of (1) lead burners and apprentice lead burners at the Delaware Works, excluding helpers and supervisors; and (2) lead burners and apprentice lead burners at the Baker and Adamson Works, excluding helpers and supervisors. The Employer contends that because of the integrated operations and the close community of interests among all employees, and in view of the past history of collective bargaining, only a broad unit of all production and maintenance employees is appropriate. In the event the Board establishes a less comprehensive unit in the nature of that sought by the Petitioner, the Employer would set up two separate units, one for lead burners at the Delaware Works, and one for lead burners at the Baker and Adamson Works.

The Board has previously found, in other cases similar to the instant proceeding, that lead burners constitute a true craft, and may comprise a separate bargaining unit.³ The Employer and the Intervenor⁴ urge, however, that the bargaining history covering the Employer's employees militates against the establishment of a separate unit or units.

On September 29, 1943, following a Board-conducted election,⁵ the Intervenor was certified as bargaining agent for production and maintenance employees at the Delaware Works of the Employer. In September 1944, the Employer and the Intervenor entered into the first series of bargaining contracts covering production and maintenance employees at the Delaware Works, including lead burners, and employees at the Baker and Adamson Works. The last of these contracts expired on January 6, 1948. On February 23, 1948, after the petition in the instant case had been filed, the Employer and the Intervenor

² We find no merit in the Employer's contention that the petition should be dismissed because no decertification petition has been filed under the provisions of Section 9 (c) (1) (A) (ii) of the Act. The Board is not precluded from finding that a craft unit is appropriate for collective bargaining because the Employer has previously bargained on the basis of a larger unit including these craft employees. Whether or not employees in a proposed craft unit desire representation by the Petitioner is a question to be resolved by an election among them.

³ *Matter of Hooker Electrochemical Company*, 74 N L R B 618; *Matter of E. I. du Pont de Nemours & Co., Inc.*, 72 N L R. B. 361; *Matter of National Aniline Division, Allied Chemical and Dye Corporation*, 71 N L R. B. 1217, and cases cited therein.

⁴ Local 12781, District 50, United Mine Workers of America, was permitted to intervene because of its contract interest.

⁵ *Matter of General Chemical Works*, 51 N L R B 1409.

executed separate contracts for employees at the Delaware Works and for employees at the Baker and Adamson Works,⁶ respectively.

The Delaware Works and the Baker and Adamson Works engage in making different chemical products, are geographically separated and separately supervised, maintain separate seniority systems, time clocks and pay rolls, personnel and accounting departments, and medical services. There is little or no interchange of employees, including lead burners, between the two plants. Previous to the filing of the instant petition, however, employees at the two plants have been covered in one contract, negotiated by one bargaining committee. The current bargaining contracts, though separate, were negotiated by a single committee representing both plants. Under all the circumstances, we are of the opinion that lead burners and apprentice lead burners at the two plants may constitute a single bargaining unit as follows:

All lead burners and apprentice lead burners at the Employer's Delaware Works and Baker and Adamson Works, excluding helpers and supervisors.

However, we shall make no final unit determination at this time, but shall be guided in part by the desires of these employees as expressed in the election hereinafter directed. If a majority of employees in the voting group vote for the Petitioner, they will be taken to have indicated their desire to constitute a separate appropriate unit.

DIRECTION OF ELECTION

As part of the investigation to ascertain representatives for the purposes of collective bargaining with the Employer, an election by secret ballot shall be conducted as early as possible, but not later than 30 days from the date of this Direction, under the direction and supervision of the Regional Director for the Region in which this case was heard, and subject to Sections 203.61 and 203.62 of National Labor Relations Board Rules and Regulations—Series 5, among the employees in the group described in paragraph numbered 4, above, who were employed during the pay-roll period immediately preceding the date of this Direction of Election, including employees who did not work during said pay-roll period because they were ill or on vacation or temporarily laid off, 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, and also excluding employees

⁶ Neither the Employer nor the Intervenor contends that these contracts are a bar to the present proceedings.

on strike who are not entitled to reinstatement, to determine whether or not they desire to be represented, for purposes of collective bargaining, by United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, Lead Burners, Local 532, A. F. L.⁷

⁷The Intervenor has not complied with Section 9 (f), (g), and (h) of the Act, as amended, nor does it desire to participate in the election.