In the Matter of AKRON BRICK & BLOCK CO., EMPLOYER AND PETITIONER; *and* INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA, AFL, LOCAL NO. 348, *and* THE UNITED BRICK AND CLAY WORKERS OF AMERICA, AFL

Case No. 8-RM-5.—Decided October 4, 1948

DECISION

AND

DIRECTION OF ELECTION

Upon a petition duly 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 Chairman Herzog and Board Members Reynolds[2] and Murdock.

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

1. The Employer, an Ohio corporation, operates its only plant at Mogadore, Ohio, a suburb of Akron, where it is engaged in the manufacture of cement blocks, which are sold at wholesale to building supply dealers in the Akron area. During the past year the Employer purchased raw materials, machinery, and equipment valued at approximately $270,000, of which approximately $29,000 represented purchases from outside the State of Ohio.

The close relationship between enterprises of this nature which are the immediate source of building materials distributed by building supply dealers, and the building-construction industry, over which

[1] The United Brick and Clay Workers of America, AFL, one of the Intervenors in this proceeding, moved to dismiss the petition on the ground that the dismissal of its unfair labor practice charges against the Employer by the Regional Director is pending on appeal before the General Counsel of the Board (Case No. 8-CA-48). As the General Counsel, by his dismissal of the appeal on September 13, 1948, has since sustained the Regional Director's action, we see no reason to delay a determination of representatives, and, accordingly, deny the motion. *Matter of Grand Rapids Cabinet Company*, 72 N. L. R. B. 197; *Matter of Johnson Furniture Company*, 73 N. L. R. B. 1112.

[2] Board Member Reynolds did not participate in this case.

we have recently asserted jurisdiction, logically compels the exercise of our jurisdiction in the instant case. We find, therefore, contrary to the contention of the Employer, that its operations affect commerce within the meaning of the Act.[3]

2. The labor organizations named below claim to represent employees of the Employer.

3. A question affecting commerce 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.

4. The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act:

All production and maintenance employees, excluding office and clerical employees, guards, professional employees, and supervisors as defined by the Act.

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, as amended, among the employees described in paragraph 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 on strike who are not entitled to reinstatement, to determine whether they desire to be represented, for purposes of collective bargaining, by International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL, Local No. 348, or by The United Brick and Clay Workers of America, AFL, or by neither.

[3] *Matter of J. H. Patterson Co.*, 79 N. L. R. B. 355. Chairman Herzog and Member Murdock regard themselves as bound in this panel matter by the action of a majority of the full Board in the *Patterson* case.