

In the Matter of WILSON & Co., INC., EMPLOYER and UNITED PACKINGHOUSE WORKERS OF AMERICA, C. I. O., PETITIONER

In the Matter of WILSON & Co., INC., EMPLOYER and WILLIAM J. PALMER, PETITIONER and UNITED PACKINGHOUSE WORKERS OF AMERICA, LOCAL 25, C. I. O., UNION

*Cases Nos. 13-RC-430 and 13-RD-21, respectively.—Decided  
February 8, 1949*

DECISION  
AND  
DIRECTION OF ELECTION

Upon separate certification and decertification petitions duly filed, a consolidated 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.<sup>1</sup>

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 certain employees of the Employer.<sup>2</sup> The Petitioner in the decertification case asserts that Local 25 is no longer the representative of the Employer's employees within the meaning of Section 9 (a) of the Act.

\*Houston, Reynolds, and Gray.

<sup>1</sup> The hearing officer's ruling permitting intervention in the RC case by United Packinghouse Workers Amalgamated Independent Union is hereby affirmed; as is his rejection of evidence by the Employer bearing on the compliance of the United Packinghouse Workers of America, C. I. O., with Section 9 (h) of the Act. *Matter of Lion Oil Co.*, 76 N. L. R. B. 565. The Employer's motion to dismiss the RC petition on the ground that the Petitioner has not complied with Section 9 (h) is denied, as the official records of the Board indicate that such Petitioner has in fact complied. *Matter of Lion Oil Co.*, *supra*.

<sup>2</sup> United Packinghouse Workers of America, Local 25, C. I. O., hereinafter called Local 25, was certified on January 11, 1943, for the production and maintenance employees at the Employer's Chicago, Illinois, plant, with specified inclusions and exclusions, 45 N. L. R. B. 831. Subsequent contracts appear to have recognized the Petitioner in the instant certification case, hereinafter called the International, as the representative of such employees. No issue of contract bar was raised at the hearing.

A question affecting commerce exists concerning the representation of certain employees of the Employer, within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act.

4. The appropriate unit:

The parties are in agreement as to most of the categories of employees to be included in, and excluded from the unit. These inclusions and exclusions are based on the original certification as amended by the contract between the Employer and the International and by stipulations of the parties at the hearing. There is disagreement only as to the inclusion of hourly paid checkers, certain hourly paid scalers, plant commissary employees, and firemen, whom the Employer would exclude, and the other parties include.

(1) As to the *firemen*, the Employer contends that they should be excluded as "guards," notwithstanding that they have heretofore been included in the contract unit. This contention is rejected, as we are not satisfied from the record that they spend the major part of their time in doing the work of "guards" as defined in Section 9 (b) (3) of the amended Act. *Matter of Carbide and Carbon Chemicals Corporation*, 79 N. L. R. B. 932.

(2) The *plant commissary employees* prepare and serve food to all employees at the plant. The chef, assistant chef, storekeeper, and the clerical employees have heretofore been excluded from the contract unit as supervisors or clerks. In the absence of any evidence that they are not supervisors or clerks, we will exclude them. The remaining plant commissary employees have since 1945 been included in the contract unit (as similar employees have been in the three other plants of the Employer which operate plant commissaries). The Board has frequently included plant restaurant employees in a plant-wide unit. See *Matter of Standard Romper Co., Inc.*, 77 N. L. R. B. 421, and cases there cited. We will, accordingly, include the plant commissary employees in the instant unit, with the exceptions noted above.

(3) As to the *checkers*, their duties consist of making the final check of the product as to type and weight before shipment. They work on the Employer's docks. Hourly paid checkers are included in the production and maintenance units at most, if not all, the other plants of the Employer. Moreover, the evidence indicates that most of the checkers work about 75 percent of the time as "gang leaders," a category which the parties have agreed to include in the unit. We will, accordingly, include the hourly paid checkers in the unit.<sup>3</sup>

<sup>3</sup> Although there is no difference between the duties of the hourly paid and weekly paid checkers, we exclude the latter pursuant to the agreement of the parties and in view of the fact that they have been consistently excluded from the contract unit since the original Board certification of Local 25.

(4) As to the *scalers*, the Employer would exclude, and the other parties would include, the hourly paid shrink and yield scalers. Their job is to weigh products before and after processing to determine the shrinkage and yield of the Employer's output. Although not named in the original certification, they have been consistently included in the contract unit in the instant plant and in the majority of the Employer's plants. We will include them in the unit.

We find, therefore, that 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 at the Employer's Chicago plant, including hourly paid checkers and scalers, gang leaders, plant commissary employees, plant tractor drivers, carlines, print shop and stationery department employees, stable employees, storeroom employees, matrons, and firemen, but excluding weekly paid scalers and checkers, the chef, the assistant chef, the store-keeper and the clerks in the plant commissary, chauffeurs, shop fat drivers, sanitation tractor drivers, bricklayers, office and clerical employees, general office janitors, general office employees, plant protection employees, laboratory employees, wholesale market employees, retail market employees, office restaurant employees, office stationery employees, superintendents, foremen, assistant foremen, assistant superintendents, division superintendents, foreladies, sales employees, plant clerical employees, timekeeping department employees, medical department employees, planning and methods department employees, receiving office employees, employment department employees, koshermen, office janitors, all garage employees (including chauffeurs, cripple cart drivers, utility chauffeurs, truck helpers, mechanics, greasers, washers, mechanic's helpers, truck painters, and general handy men), brickmasons, and all supervisors.

#### 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 in the unit found appropriate 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 on strike who are not entitled to reinstatement, to determine whether they desire to be represented, for purposes of collective bargaining, by United Packinghouse Workers of America, C. I. O., and its Local 25,<sup>4</sup> or by United Packinghouse Workers Amalgamated Independent Union, or by neither.

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<sup>4</sup> We place the International and Local 25 on the ballot together as one choice in view of the following circumstances:

The original certification ran to Local 25. However, all three contracts executed since that time have been signed by the International alone, so that it is not clear which of these two unions is the present beneficiary of the certification, and which one is, therefore, subject to decertification. Moreover, the decertification case has been consolidated with a certification case initiated by the International alone and it is desirable to dispose of the representation questions raised in both cases by a single election.