

In the Matter of WILSON & Co., INC.,¹ EMPLOYER *and* LOCKE PAUL TUTTLE, PETITIONER *and* GENERAL TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA, LOCAL 583, A. F. L., UNION

Case No. 16-RD-36.—Decided March 9, 1949

DECISION
AND
DIRECTION OF ELECTION

Upon a petition for decertification 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.

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 the case the Board finds:

1. The Employer is engaged in commerce within the meaning of the National Labor Relations Act.
2. The Petitioner, an employee of the Employer, asserts that the Union is no longer the representative of the Employer's employees, as defined in Section 9 (a) of the amended act.

The Union, a labor organization affiliated with the American Federation of Labor, was certified by the Board on December 27, 1946, as the result of a petition filed in Case No. 16-R-2015, as representative of the employees here involved.

3. The Employer and the Union had a contract which expired on March 3, 1948. On July 2, 1948, while meeting with the Union to negotiate a new contract, the Employer was notified by letter from the Petitioner of his intention to file the present decertification petition. The Employer thereupon broke off negotiations, and no new contract has been executed.

¹ The name of the Employer appears as corrected at the hearing.

*Chairman Herzog and Members Reynolds and Gray

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We find that 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 Employer, the Petitioner, and the Union agree, and we find, that the following is 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 Abilene, Texas, plant, including truck drivers, but excluding all temporary employees,² all office employees, field men, plant manager, assistant plant manager, office manager, general superintendent, assistant general superintendent, picking room foreman, feeding station foreman, creamery superintendent, assistant creamery superintendent, egg breaking foreman, receiving clerks, packing room foreman, shipping clerks, test room foreman, egg drying foreman, poultry superintendent, hatchery manager, and all other supervisors as defined in the Act.³

DIRECTION OF ELECTION

As part of the investigation to ascertain representatives for the purposes of collective bargaining with Wilson & Co., Inc., Abilene, Texas, 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 Sixteenth Region, 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, 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 or not they desire to be represented by General Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local 583, A. F. L., for the purposes of collective bargaining.

² All the parties agree that employees who work for the Employer only during the peak seasons should be considered to be temporary employees. Permanent employees are those employees who are on the Employer's pay roll not only during peak seasons but in the relatively slack periods from the latter part of June through September and from the latter part of December through the first part of February.

³ The above unit description is identical with that set forth in the order of certification issued December 27, 1946, except for slight revision to conform with the provisions of the amended Act