

In the Matter of NESS SANITARY WIPER COMPANY AND/OR THE SLOSMAN COMPANY, EMPLOYER and WILLIE MAE ANDERSON, PETITIONER and LOCAL 385, INTERNATIONAL FUR & LEATHER WORKERS UNION, CIO, UNION

Case No. 34-RD-20.—Decided August 29, 1949

DECISION
AND
DIRECTION OF ELECTION

Upon a petition duly filed, a hearing was held before Miles J. McCormick, hearing officer. 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-member panel [Chairman Herzog and Members Reynolds and Gray].

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 Petitioner, an employee of the Employer, asserts that the Union is no longer the representative of the employees of the Employer, as defined in Section 9 (a) of the Act.

As a result of a consent election held in August 1946, the Employer entered into a collective bargaining agreement with the Union which expired on January 5, 1949. However, the Employer still recognizes the Union as the exclusive bargaining representative of its employees.¹

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

¹ Although the Union was properly served with a notice of this hearing, it failed to appear. However, its failure to appear at the hearing cannot alone be considered as a disclaimer of interest in the representation of the employees involved herein. *Matter of Hygrade Food Products Corporation*, 82 N. L. R. B. 428.

All production and maintenance employees at the Employer's Asheville, North Carolina, plant, excluding office clerical employees and supervisors as defined in the Act.

DIRECTION OF ELECTION ²

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, 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 or not they desire to be represented, for purposes of collective bargaining, by Local 385, International Fur & Leather Workers Union, CIO.

² As the Union is not in compliance with the filing requirements of Section 9 (f), (g), and (h) of the Act, we shall certify it if it wins the election, provided that at that time it is in compliance. Absent such compliance, the Board will only certify the arithmetical results of the election.