

IN the Matter of SUBURBAN PROPANE GAS CORPORATION (SHORGAS DIVISION), EMPLOYER and PHILIP F. HOPKINS, PETITIONER and PRODUCE, POULTRY, FISH, OYSTERMEN, DRIVERS AND HELPERS, LOCAL No. 929, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA, A. F. L., UNION

*Case No. 5-RD-32.—Decided November 3, 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.<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-member panel [Chairman Houston and Members Reynolds and Murdock].

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 labor organization named below is no longer the representative of the Employer's employees as defined in Section 9 (a) of the Act.

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

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:

<sup>1</sup> The hearing officer properly refused to allow questioning with respect to the petitioner's showing of interest. *Matter of California Consumers Corp.*, 82 N. L. R. B. 484; *Matter of National Color Printing, Inc.*, 78 N. L. R. B. 147.

<sup>2</sup> The Union moved to dismiss the petition on the ground that a decertification petition is not appropriate when an existing union, previously certified by the Board and having entered into two successive bargaining contracts, is actively seeking a new contract on behalf of the employees in the unit. This motion is denied. *Matter of Wilson & Co.*, 81 N. L. R. B. 1316; *Matter of Kraft Foods Co.*, 76 N. L. R. B. 492.

86 N. L. R. B., No. 135.

All deliverymen, installation men, and station men of the Employer at its Fruitland, Easton, Chestertown, and Crisfield, Maryland, plants, Dover and Rehoboth Beach, Delaware, plants, and Keller, Virginia, plant, excluding office and clerical employees, sales personnel, professional employees, working managers, executives, and all supervisory employees as defined in the Act.

5. After the hearing Petitioner requested the Board, by letter of September 19, 1949, to amend its petition to include Teamsters Local 876, attaching a copy of a communication to "all Shorgas Stewards" from the "Secretary-Treasurer of Local 876, Georgetown, Delaware." This communication, dated August 22, 1949, reported on the hearing held in this proceeding in Baltimore before Hearing Officer Mather, and concluded with the following paragraph: "For your information we have our new charter dated August 17, 1949 and number local 876."

On September 27, 1949, the Board issued its notice to the parties to show cause, on or before October 7, 1949, why the petition should not be amended to substitute the name of Teamsters Local 876 for Teamsters Local 929. The only response received to this notice was a further letter from Petitioner pointing out that it wishes both Locals included in the petition and proceeding. On October 18, 1949, the Board received from the Employer a copy of a letter dated September 22, 1949, from the Secretary-Treasurer of Local 929 to the Employer stating that the International Union had rearranged the jurisdiction of Local 929, had set up a new local numbered 876, that "the members" of 929 "have been transferred to Local 876," requesting the Employer thereafter to deal directly with Local 876, and stating, "this is your authority to do so."

As Local 929 is the certified union, as there is no evidence that Local 929 has become defunct, as it appears that the employees in the unit in question have been transferred to Local 876, and as Local 876 appears to be the successor to Local 929 insofar as the employees herein involved are concerned, we shall direct an election to determine whether or not these employees desire to be represented by the incumbent union, whether it be Local 929 or its successor Local 876.

#### 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, 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 Produce, Poultry, Fish, Oystermen, Drivers and Helpers, Local No. 929 (or its successor Local 876), International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, A. F. L.