

In the Matter of LIGGETT & MYERS TOBACCO COMPANY, EMPLOYER and INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA, LOCAL No. 81, A. F. OF L., PETITIONER

In the Matter of LIGGETT & MYERS TOBACCO COMPANY, EMPLOYER and TOBACCO WORKERS INTERNATIONAL UNION, A. F. OF L., No. 176, PETITIONER¹

Cases Nos. 34-RC-183 and 34-RC-194.—Decided October 20, 1950

DECISION, ORDER, AND DIRECTION OF ELECTION

Upon separate petitions duly filed under Section 9 (c) of the National Labor Relations Act, a consolidated hearing was held before Miles J. McCormick, hearing officer. The hearing officer's ruling made at the hearing are free from prejudicial error and are hereby affirmed.

Pursuant to the provisions of Section 3 (b) of the Act, the Board has delegated its powers in connection with these cases to a three-member panel [Members Houston, Murdock, and Styles].

Upon the entire record, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act.
2. The labor organizations involved claim to represent certain 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 appropriate units:

Case No. 34-RC-183

International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, Local No. 81, A. F. of L., herein called the Teamsters, seeks a unit consisting generally of the warehousemen, the shipping department, and the storage department employees of the

¹ The name of the Petitioner in Case No. 34-RC-194 appears as amended at the hearing. 91 NLRB No. 178.

Employer. Tobacco Workers International Union, A. F. of L., Local No. 176, herein called the Tobacco Workers, moved to dismiss the petition on the ground that the unit sought is inappropriate, particularly in view of the past bargaining history.² The Employer also contends that the unit sought is inappropriate.

The Employer is engaged in the manufacture of packaged cigarettes and other manufactured tobacco products. The Employer's Durham, North Carolina, plant is the only plant involved in this proceeding. This plant is under the general supervision of a general manager. The plant is divided into two sections: (1) the stemmery, storage, and leaf department, and (2) the manufacturing department. The storage function of the first department is under the control of a superintendent. The shipping department, a subdivision of the manufacturing department, also has its own superintendent.

The Employer purchases tobacco at auction warehouses. Some of the tobacco is brought directly to the stemmery department and some is stored. The tobacco which is brought to the stemmery department is processed, put back into kegs, and transported by the Employer's trucks to its various storage houses, where it remains without further process for a period of approximately 2 years. At the end of the storage period, it is put back on trucks by the storage department employees, and taken to the manufacturing department. The shipping department performs the usual packing and transporting functions of such a department.

Under all the circumstances of this case, and in the absence of controlling bargaining history,³ we find that the warehousemen and storage department employees constitute an appropriate unit as they are under common separate supervision, do not regularly interchange with the production employees, have little contact with them, and perform a different type of work.⁴ The Tobacco Workers' motion to dismiss is accordingly denied. We shall not, however, include the shipping department employees sought by the Teamsters in the unit herein found appropriate. These shipping department employees are under separate immediate and ultimate supervision, are in a different administrative division of the Employer's plant, do not interchange

² The Tobacco Workers has represented employees of the Employer, including employees in the unit involved, for approximately 15 years under contracts limited to employees "they represent." The existing contract between the Tobacco Workers and the Employer was entered into on March 24, 1950, retroactively effective to March 15, 1950, for a term of 1 year. The Teamsters have represented the truck drivers in the storage department since 1941. There is no contract bar contention.

³ We attach little weight to a bargaining history conducted on a "members-only" basis. *Baking Industry Council*, 80 NLRB 1590.

⁴ This unit, together with the truck drivers already represented by the Teamsters, includes all the employees in the storage department.

with the storage department employees, and have little contact with them.

We find that the following employees at the Employer's Durham, North Carolina, plant constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act:

All warehousemen, including employees of the storage department, power-lift truck operators, tractor operators, hoist operators, oilers, hogshead handlers, and all others engaged in warehousing and storage operations, but excluding all other employees, working foremen, assistant foremen, and all other supervisors.

Case No. 34-RC-194

The Tobacco Workers seeks a unit composed of all the employees engaged in the maintenance and operation of the air-conditioning equipment in the Employer's Durham, North Carolina, plant. International Association of Machinists, Lodge No. 721, herein called the Machinists, moved to dismiss the petition on the ground that the unit sought was inappropriate. The Employer also contended that the unit was inappropriate and that the air-conditioning employees should continue as part of the maintenance group now represented by the Machinists under a "members-only" contract.

The Employer began operation of its air-conditioning equipment in July 1949. The Employer now employs one supervisor and eight employees in the maintenance and operation of this equipment. These employees operate the controls, read gauges, make required adjustments, and perform minor repairs. The air-conditioning employees are not sufficiently skilled to make major repairs, which would be made by the pipe fitters, electricians, and other craftsmen of the Employer or by outside contractors. The air-conditioning employees are supervised by the master mechanic, who is also the supervisor of the electricians, plumbers, pipe fitters, and other skilled maintenance employees. Of the eight air-conditioning employees, six are former production workers. The other two air-conditioning employees were hired by the Employer for this kind of work, and had had some previous experience in this field. All eight of these employees are classified as apprentices. The Employer stated that 4 years' apprenticeship in this work would be necessary before journeyman status was reached.

Under all the circumstances of the case, and in view of the fact that the Tobacco Workers concedes that the air-conditioning employees are not included in any traditional craft and are not highly skilled, we

find that they do not constitute an appropriate unit. We shall therefore grant the Machinists' motion to dismiss the petition in Case No. 34-RC-194.

ORDER

Upon the basis of the foregoing findings of fact and upon the entire record in the case, the National Labor Relations Board hereby orders that the petition in Case No. 34-RC-194 be, and it hereby is, dismissed.

[Text of Direction of Election omitted from publication in this volume.]