

In the Matter of VICKSBURG HARDWOOD COMPANY and UNITED BROTHERHOOD OF CARPENTERS & JOINERS OF AMERICA, A. F. OF L.

Case No. 15-R-1295.—Decided June 2, 1945

Mr. A. C. Berry, of Vicksburg, Miss., for the Company.

Mr. Charles F. Mendenhall, of Little Rock, Ark., and *Mr. W. A. Hundermark*, of Vicksburg, Miss., for the Brotherhood.

Mr. George Bentley, of Memphis, Tenn., for the I. W. A.

Mr. Louis Cokin, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by United Brotherhood of Carpenters & Joiners of America, A. F. of L., herein called the Brotherhood, alleging that a question affecting commerce had arisen concerning the representation of employees of Vicksburg Hardwood Company, Vicksburg, Mississippi, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Walter Wilbur, Trial Examiner. Said hearing was held at Vicksburg, Mississippi, on April 20, 1945. At the commencement of the hearing, the Trial Examiner granted a motion of International Woodworkers of America, C. I. O., herein called the I. W. A. to intervene. The Company, the Brotherhood, and the I. W. A. appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded opportunity to file briefs with the Board.

Upon the entire record in the case, the Board makes the following:

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FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Vicksburg Hardwood Company is a Mississippi corporation operating a plant at Vicksburg, Mississippi, where it is engaged in the manufacture of lumber products. During 1944 the Company manufactured more than 12,000,000 board feet of lumber at its Vicksburg plant, about 90 percent of which was shipped to points outside the State of Mississippi.

We find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

United Brotherhood of Carpenters & Joiners of America is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

International Woodworkers of America is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

During December 1944 the Brotherhood requested the Company to recognize it as the exclusive collective bargaining representative of the employees at the Vicksburg plant. The Company refused this request until such time as the Brotherhood is certified by the Board.

A statement of a Field Examiner of the Board, introduced into evidence at the hearing, indicates that the Brotherhood represents a substantial number of employees in the unit hereinafter found to be appropriate.¹

We find that a question affecting commerce has arisen concerning the representation of employees of the Company, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

IV. THE APPROPRIATE UNIT

The parties agree that all production and maintenance employees at the Vicksburg plant of the Company, excluding clerical and supervisory employees, constitute an appropriate bargaining unit. However, there appears to be some dispute with respect to the supervisory status of the inspector.

The inspector is in charge of a crew of about five laborers engaged in car loading. The record discloses that he has the authority to recommend effectively the discipline of his subordinates. We shall exclude the inspector from the unit.

We find that all production and maintenance employees at the Vicksburg plant of the Company, excluding the inspector, clerical employees, and all

¹ The Field Examiner reported that the Brotherhood presented 25 application cards. There are approximately 50 employees in the appropriate unit.

supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the Act

V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by means of an election by secret ballot among the employees in the appropriate unit who were employed during the pay-roll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.

The Brotherhood contends that the I. W. A. should not be accorded a place on the ballot because of its failure to make any representation showing prior to or at the hearing. In June 1943 the I. W. A. was designated as exclusive collective bargaining representative of the employees involved herein following a consent election.² Thereafter, negotiations between the Company and the I. W. A. commenced in September 1943, and in January 1944, the I. W. A. requested the assistance of the United States Conciliation Service. The Company at that time requested that the United States Conciliation Service be withdrawn and thereafter held a collective bargaining conference with the I. W. A., at which time many provisions for an agreement were agreed upon. In September 1944 the I. W. A. and the Company met again at which time they agreed upon further provisions for an agreement. At about the same time the I. W. A. requested the employees involved herein to sign dues check-off authorization cards. Twenty employees signed such cards, although no dues have ever been checked off by the Company. In January 1945 the I. W. A. again requested the assistance of the United States Conciliation Service. It appears that the lapses of time between the bargaining conferences alluded to above were due to the illness of the Company's negotiator. We conclude that the I. W. A.'s designation of 1943 and its dealings with the Company thereafter are sufficient evidence of its present interest to warrant placing it on the ballot.

DIRECTION OF ELECTION

By virtue of and pursuant to the power vested in the National Labor Relations Board by Section 9 (c) of the National Labor Relations Act, and pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 3, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Vicksburg Hardwood Company, Vicksburg, Mississippi, an election by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from the date of this

² Case No. 15-R-933

Direction, under the direction and supervision of the Regional Director for the Fifteenth Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Sections 10 and 11, of said Rules and Regulations, among the employees in the unit found appropriate in Section IV, 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, and including employees in the armed forces of the United States who present themselves in person at the polls, but excluding any who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the election, to determine whether they desire to be represented by United Brotherhood of Carpenters & Joiners of America, A. F. of L., or by International Woodworkers of America, C. I. O., for the purposes of collective bargaining, or by neither