

In the Matter of SHEVLIN-HIXON COMPANY and LUMBER AND SAWMILL
WORKERS, LOCALS 2928 AND 2940, A. F. OF L.

Case No. 19-R-1527.—Decided June 6, 1945

Mr. C. L. Irving, of Klamath Falls, Ore., for the Company.

Mr. William F. Wedel, of Bend, Oreg., and *Messrs. Wilbur Yoeman* and *Donald Gelman*, of Klamath Falls, Oreg., for the A. F. of L.

Mr. George Brown, of Portland, Oreg., and *Mr. Joe Huber*, of Klamath Falls, Oreg., 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 Lumber and Sawmill Workers Union, Locals 2928 and 2940, A. F. of L., herein called the A. F. of L., alleging that a question affecting commerce had arisen concerning the representation of employees of Shevlin-Hixon Company, Bend, Oregon, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before John E. Medrick, Trial Examiner. Said hearing was held at Bend, Oregon, on April 20, 1945. At the commencement of the hearing, the Trial Examiner granted a motion of International Woodworkers of America, Local Union 6-7, C. I. O., herein called the I. W. A., to intervene. The Company, the A. F. of L., 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. During the course of the hearing, the I. W. A. moved to dismiss the petition. For reasons set forth in footnote 1, *infra*, the motion is denied. 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

Shevlin-Hixon Company is a Delaware corporation with its executive offices at Minneapolis, Minnesota. We are here concerned with its logging and mill operations in and near Bend, Oregon. All logs used by the Company at its Bend, Oregon, mill are felled within the State of Oregon. The Company produces approximately 140,000,000 board feet of logs annually, about 90 percent of which is shipped by it to points outside the State of Oregon.

The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

Lumber and Sawmill Workers Union, Locals 2928 and 2940, are labor organizations affiliated with the American Federation of Labor, admitting to membership employees of the Company.

International Woodworkers of America, Local Union 6-7, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On January 30, 1945, the A. F. of L. requested the Company to recognize it as the exclusive collective bargaining representative of the employees at its logging camp and operations at Bend, Oregon. The Company refused this request on the ground that it was operating under a contract with the I. W. A.

On December 27, 1941, the Company and the I. W. A. entered into an exclusive collective bargaining contract. The contract was to remain in effect until April 1, 1942, and from year to year thereafter, unless notice of a desire to terminate was given by either party thereto not less than 30 days prior to any annual expiration date. No such notice has ever been given. Inasmuch as the A. F. of L.'s claim was made in timely fashion, we find that the contract does not constitute a bar to a present determination of representatives.

Statements of a Field Examiner of the Board and the Trial Examiner, introduced into evidence at the hearing, indicate that the A. F. of L. represents a substantial number of employees in the unit hereinafter found to be appropriate.¹

¹ The statements show that the A. F. of L. submitted 157 authorization cards bearing the names of persons who appear on the Company's pay roll of March 10, 1945. There are 798 employees in the appropriate unit. The I. W. A. did not present any evidence of representation, but relies upon its contract as evidence of its interest in the instant proceeding. The I. W. A. contends that the A. F. of L. has made an insufficient showing of representation and that the petition should, therefore, be dismissed. The contract between the Company and the I. W. A. alluded to above, contains a maintenance-of-membership clause and a further provision which requires the Company to recommend to its new employees that they join the I. W. A. In view of these facts, we find no merit in the I. W. A.'s contention regarding the A. F. of L.'s showing of interest.

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 of the Company in and about its logging camp and its operations at Bend, Oregon, excluding supervisory employees, maintenance foremen, office and clerical employees, and conductors, brakemen, engineers, and firemen employed on the railroad, constitute an appropriate unit. Some question arose at the hearing with respect to the disposition to be made of the car checker.

The record indicates that the car checker checks all lumber which is loaded into railroad cars and is responsible for the amount of the various grades of lumber that is loaded. The car checker is paid on a monthly rate, in contrast to the other employees who are paid on an hourly or piece-rate basis, and it appears that his work is purely clerical in nature. We shall exclude the car checker from the unit.

We find that all production and maintenance employees of the Company in and about its logging camp and its operations at Bend, Oregon, excluding office and clerical employees, car checker, conductors, brakemen, engineers, and firemen employed on the railroad, maintenance foremen, and any other 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 I. W. A. requests that it appear on the ballot as "I. W. A. Local 6-7, C. I. O." The request is hereby granted.

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 Shevlin-Hixon Company, Bend, Oregon, an election by secret ballot shall be conducted as early as

possible, but not later than thirty (30) days from the date of this Direction, under the direction and supervision of the Regional Director for the Nineteenth 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 Lumber and Sawmill Workers Union, Locals 2928 and 2940, A. F. of L., or by I. W. A., Local 6-7, C. I. O., for the purposes of collective bargaining, or by neither.