

In the Matter of COLEMAN ENTERPRISE CORPORATION and UNITED FURNITURE WORKERS OF AMERICA, C. I. O.

Case No. 4-R-1721.—Decided June 19, 1945

Mr. T. C. Coleman, of Glen Rock, Pa., for the Company.

Mr. Abe Klein, of Hanover Pa., and *Mr. John H. Kirchner*, of Railroad, Pa., for the United.

Mr. Milton D. M. Peters, of York, Pa., for the Allied.

Mr. Louis Cokin, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by United Furniture Workers of America, C. I. O., herein called the United, alleging that a question affecting commerce had arisen concerning the representation of employees of Coleman Enterprise Corporation, Glen Rock, Pennsylvania, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Herman Lazarus, Trial Examiner. Said hearing was held at York, Pennsylvania, on May 10, 1945. At the commencement of the hearing the Trial Examiner granted a motion of Allied Woodworkers Union of America, Inc., Local No. 5, herein called the Allied, to intervene. The Company, the United, and the Allied appeared at and participated in the hearing and all parties 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:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Coleman Enterprise Corporation is a Pennsylvania corporation operating under the laws of Pennsylvania, Chapter 62 N. L. R. B., No. 76.

ing a plant at Glen Rock, Pennsylvania, where it is engaged in the manufacture of wood furniture. The Company annually purchases raw materials valued at about \$200,000, approximately 90 percent of which is shipped to it from points outside the Commonwealth of Pennsylvania. During the same period the Company produces finished products valued at about \$400,000, approximately 75 percent of which is shipped to points outside the Commonwealth of Pennsylvania.

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

II. THE ORGANIZATIONS INVOLVED

United Furniture Workers 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

On March 12, 1945, the United requested the Company to recognize it as the exclusive collective bargaining representative of the Company's employees. The Company refused this request on the ground that it was under a contract with the Allied.

On June 2, 1943, the Company and the Allied entered into an exclusive bargaining contract. The contract provided that it shall remain in effect for 1 year. The contract was renewed thereafter to remain in effect until June 2, 1945. It contains no automatic renewal clause. Inasmuch as the contract expired by its terms on June 2, 1945, we find that it does not constitute a bar to a determination of representatives at this time.

A statement of the Trial Examiner, read into evidence at the hearing, indicates that the United 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 United and the Allied urge that all production and maintenance employees of the Company, including firemen and watchmen, but excluding executives and clerical and supervisory employees, constitute an appropriate unit. The only controversy with respect to the unit concerns the watchmen. The Company would exclude them from the unit.

The Company employs three watchmen who patrol the premises and maintain the fires in the boilers. The record discloses that they are neither

¹ The Trial Examiner reported that the United presented 30 authorization cards bearing names of persons that appear on the Company's pay roll of April 16, 1945. There are approximately 53 persons in the appropriate unit. The Allied did not present any evidence of representation, but relies upon its contract as evidence of its interest in the instant proceeding

deputized nor militarized and have been covered by contracts between the Company and the Allied since 1941. We shall include the watchmen in the unit.

We find that all production and maintenance employees of the Company, including firemen and watchmen, but excluding clerical employees, executives, and all 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.²

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.

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 Coleman Enterprise Corporation, Glen Rock, Pennsylvania, 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 Fourth 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 the 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 Furniture Workers of America, C. I. O., or by Allied Woodworkers Union of America, Inc., Local No. 5, for the purposes of collective bargaining, or by neither.

² This is substantially the same unit as provided for in the contract between the Allied and the Company