

In the Matter of MT. SHASTA PINE MANUFACTURING COMPANY and
INTERNATIONAL WOODWORKERS OF AMERICA, DISTRICT No. 6, C. I. O.

Case No. 20-R-1244.—Decided June 27, 1945

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

Mr. R. F. Kroeger, of Portland, Oreg., and *Mr. Vernon N. Chase*, of
Klamath Falls, Oreg., for the I. W. A.

Mr. Ray A. Weaver, of Dunsmuir, Calif., for the Association.

Mr. Julius Kirle, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon an amended petition duly filed by International Woodworkers of America, District No. 6, C. I. O., herein called the I. W. A., alleging that a question affecting commerce had arisen concerning the representation of employees of Mt. Shasta Pine Manufacturing Company, Mt. Shasta, California, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Robert E. Tillman, Trial Examiner. Said hearing was held at Mt. Shasta, California, on January 11, 1945. The Company, I. W. A., and Northern California Pine Workers Association, herein called the Association, appeared and participated.¹ 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 an 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

Mt. Shasta Pine Manufacturing Company, a California corporation having its place of business at Mt. Shasta, California, is engaged in the manu-

¹ United Brotherhood of Carpenters & Joiners of America, Lumber & Sawmill Workers Division, A. F. of L., was served with Notice of Hearing but made no appearance

62 N L R B., No. 122.

facture and distribution of lumber and lumber products, in connection with which it carries on logging operations and operates a sawmill and box factory. During the year 1944, the Company manufactured approximately 18,000,000 board feet of lumber, of which more than 20 percent was sold and shipped to customers located at points outside the State of California.

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

II. THE ORGANIZATIONS INVOLVED

International Woodworkers of America, District No. 6, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

Northern California Pine Workers Association is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the I. W. A. as the exclusive bargaining representative of certain of the Company's employees until the I. W. A. has been certified by the Board in an appropriate unit.²

A statement of a Board agent, introduced into evidence at the hearing, indicates that the I. W. A. represents a substantial number of employees in the unit hereinafter found appropriate.³

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 are generally agreed that all the production and maintenance employees of the Company's woods and mill operations, including shop employees, but excluding office and clerical employees, the green lumber foreman, the dry lumber foreman, and supervisory employees of and above the rank of superintendent, constitute an appropriate unit. They are in

² On July 26, 1944, the Company and the Association entered into a bargaining contract covering all the Company's production and maintenance employees expressly excluding therefrom, however, foremen, supervisors, watchmen, and employees engaged in logging or the hauling of logs. Neither the Company nor the Association raises the contention that the contract constitutes a bar to the instant proceeding.

³ The Field Examiner reported that the I. W. A. submitted 61 cards, that the names of 51 persons appearing on the cards were listed on the Company's pay roll of November 3, 1944, which contained the names of 145 employees in the claimed appropriate unit, and that 3 cards were dated in August 1944, 41 in September 1944, 4 in October 1944, and 3 in November 1944. The Trial Examiner reported that the Association, subsequent to the hearing, submitted a petition bearing 20 signatures, and that the names of all the persons appearing on the petition were listed on the Company's logging pay roll which contained the names of 33 employees. The Association relies upon its contract covering the employees engaged in the mill operations and the aforesaid petition as proof of its interest in the instant proceeding.

disagreement, however, concerning the status of the watchmen and foremen discussed below.

Lawrence Warehouse bonded watchmen. The Company would exclude the two individuals in this classification on the ground that they are not employees of the Company, the I. W. A. would include them. The Association would also include them if the Board finds them to be employees of the Company. The Lawrence Warehouse Company advances money to the Company on the latter's inventory and to protect its security requires that there be bonded watchmen present when the mill is not in operation. For bonding purposes, these employees, hired by the Company, are subject to a character check-up by the Lawrence Warehouse Company. Although these employees wear Lawrence Warehouse Company badges, they are hired and can be discharged by the Company, are paid by the Company, and share in the over-all increases received by the Company's other employees, with subsequent reimbursement to the Company by the Lawrence Warehouse Company. We are of the opinion, and find, that the watchmen are employees of the Company,⁴ and inasmuch as they are only concerned with the protection of property and perform no monitorial duties with relation to the other employees, we shall include them.⁵

Warehouse foreman. This employee keeps the records in the warehouse and supervises a crew of from four to six men in the loading of cars. He spends approximately 20 percent of his time in performing work similar to that of the employees under him. Although he receives 3 cents less per hour than the highest paid employees under his supervision, the Company contends such differential is due to the difficulty of obtaining increases under the Stabilization Program. He has authority to recommend the hire and to discharge and discipline employees under him. The I. W. A. and the Association would include him; the Company would exclude him. We are of the opinion, and find, that this employee falls within the Board's definition of a supervisory employee. We shall exclude him.

Frame foreman. This employee was formerly the head of the frame department before the war caused its temporary discontinuance in the fall of 1942, in which capacity he had from 10 to 15 men under his supervision and had authority to hire, discharge, and discipline. He will again head the frame department when war conditions permit its resumption. Although he is retained on the pay roll of the Company as a foreman and is answerable only to the general manager, he presently acts as a sort of handyman doing general carpentry work, cabinet making, and building additions to the remanufacturing plant. He has not had occasion to hire, discharge, or discipline any employee since the discontinuance of the frame department. The Company and the Association would exclude him, while the I. W. A. would

⁴ See *Matter of United States Testing Company, Inc.*, 5 N. L. R. B. 696.

⁵ Cf. *Matter of Kelsey-Hayes Wheel Company*, 62 N. L. R. B. 421.

include him until such time as he resumes his actual status as head of the frame department. Inasmuch as he is presently engaged in ordinary production duties and has no one to supervise, we shall include him in the unit for so long as he does not perform supervisory duties.⁹

Millwright and foreman. This employee supervises the entire sawmill department under the supervision of the superintendent of the sawmill and in the latter's absence, takes complete charge thereof. He also performs millwright duties in the sawmill. He has the authority to hire and discharge. The Company and the Association would exclude him; the I. W. A. would include him. We are of the opinion, and find, that this employee falls within the Board's customary definition of a supervisory employee. We shall exclude him.

Carpenter foreman. This employee is in charge of a construction crew of from one to five men which is engaged in erecting new buildings. He is responsible only to the general manager. He has authority to hire, discharge, and discipline the men under his supervision. The Company would exclude him; the I. W. A. and Association include him. We are of the opinion, and find, that this employee is a supervisory employee under the Board's customary definition thereof. We shall exclude him.

Pond foreman. This employee is in charge of the mill pond crew, also directs employees from other departments when they are unloading or piling logs at the pond, and reports to the assistant general manager. As part of his duties he estimates the board feet in logs piled near the pond and runs a donkey engine used in the unloading of logs. He has authority to hire, discharge, and discipline. The Company would exclude him, the I. W. A. and Association would include him. We are of the opinion, and find, that this employee falls within the Board's customary definition of a supervisory employee. We shall exclude him.

Woods foreman, Road foreman and bulldozer, and Cutter foreman. The woods foreman supervises the skidding or landing crew which pulls newly felled logs to a truck loading point. The road foreman and bulldozer supervises a road crew of from three to eight men in the building and maintenance of the logging roads, and in addition runs the bulldozers. The cutter foreman, commonly known as "bull buck" supervises the cutting crew or fallers, and estimates the board feet in logs in order to compensate the fallers who are paid on a piece rate basis; he does not assist in the cutting of logs. The Company would exclude the road foreman and bulldozer and the cutter foreman; the I. W. A. and the Association would include them. The Company and the Association would exclude the woods foreman, the I. W. A. would include him. Although these employees have supervisory authority in the sense that they direct the work of others and appear to exercise at times the authority to hire, discharge and discipline employees

⁹ See *Matter of H. Brinton Company*, 57 N. L. R. B. 1442

under their direction, such employees are customarily admitted to membership on the rank-and-file labor unions having jurisdiction in the Northwest logging industry, and consequently are usually included in units covered by collective bargaining contracts. Under these circumstances, and for reasons indicated in our recent decision in *Matter of Coos Bay Lumber Company*,⁷ we shall include these employees in the unit hereinafter found appropriate.

We find that all production and maintenance employees of the Company's woods and mill operations, including the shop employees, Lawrence Warehouse bonded watchmen, frame foreman, woods foreman, road foreman and bulldozer, and cutter foreman, but excluding all supervisory employees in the woods operation of the rank of camp foreman and above, office and clerical employees, green lumber foreman, dry lumber foreman, warehouse foreman, millwright and foreman, carpenter foreman, pond foreman, and all other supervisory employees in the mill operations 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

The I. W. A., over the objections of the Association and the Company, urges that the election directed by the Board should be postponed until 30 days after the Company resumes normal production and that eligibility to vote be determined by the pay roll nearest the election. Inasmuch as the record indicates that the Company resumed normal operations on or about March 1, 1945, we see no reason to postpone the election or to depart from the Board's customary pay-roll period for determining eligibility to vote.

We shall direct that the question concerning representation which has arisen be resolved by 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—Secies 3, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Mt. Shasta Pine Manufacturing Company, Mt. Shasta, California, an election by secret ballot shall be

⁷ 62 N L R B. 93

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 Twentieth 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 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, to determine whether they desire to be represented by International Woodworkers of America, District No. 6, C. I. O., or by Northern California Pine Workers Association, for the purposes of collective bargaining, or by neither.⁸

MR. GERARD D. REILLY, dissenting:

For the reasons stated in my dissenting opinion in *Matter of Coos Bay Lumber Company*.⁹ I disagree with the inclusion of the woods foreman, the road foreman and bulldozer, and the cutter foreman, within the unit of non-supervisory, maintenance, and production employees.

⁸ The I. W. A. and Association requested that they be designated on the ballot as set forth above. The request is hereby granted.

⁹ 62 N. L. R. B. 93