

In the Matter of ROHM AND HAAS COMPANY *and* FEDERATION OF GLASS,
CERAMIC AND SILICA SAND WORKERS OF AMERICA, CIO

Case No. 4-R-1765.—Decided September 5, 1945

Mr. J. Arvid Johnson, of Philadelphia, Pa., for the Company.
Holmes, Lewis and Menendez, by *Mr. W. T. Lewis*, of Columbus,
Ohio, and *Mr. Everett Kanatzar*, of Bristol, Pa., for the Union.
Miss Helen Hart, of counsel to the board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Federation of Glass, Ceramic and Silica Sand Workers of America, CIO, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Rohm and Haas Company, Bristol, Pennsylvania, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Eugene M. Purver, Trial Examiner. Said hearing was held at Philadelphia, Pennsylvania, on June 29, 1945. The Company and the Union 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 an opportunity to file briefs with the Board.

Upon the entire record in th case,¹ the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Rohm and Haas Company, a Delaware corporation, has its principal place of business in Bristol, Pennsylvania, where it is engaged in

¹ Subsequent to the hearing, the parties filed with the Board a stipulation to correct the record in a certain aspect. The record is corrected accordingly.

the manufacture, sale, and distribution of chemicals, chemical specialties, and plastics. During 1944, the Company purchased more than \$750,000 worth of raw materials, approximately 75 percent of which was shipped to the Company's plant from points outside the Commonwealth of Pennsylvania. During the same year, the Company manufactured products valued in excess of \$750,000, about 75 percent of which was transported to points outside the Commonwealth of Pennsylvania.

For the purposes of this proceeding, the Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

Federation of Glass, Ceramic and Silica Sand Workers of America, affiliated with the Congress of Industrial Organizations, 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 Union as the exclusive bargaining representative of certain of its employees until the Union has been certified by the Board in an appropriate unit.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found appropriate.²

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 Union contends that the following unit is appropriate: all hourly paid production and service employees of the Company at its Bristol plant, including departmental control laboratory employees, gardeners, yard truck drivers, common laborers, fire marshals, and receiving and shipping department employees, but excluding pattern makers, office clerical employees, guards, general maintenance employees, powerhouse employees, departmental maintenance employees, research and development laboratory employees (laboratories 2, 3, 4, 7, 8, 10, 11, and 27), group leaders, and all supervisory employees. The Company seeks to include pattern makers and group leaders in the unit but otherwise agrees with the Union's position as to the specific categories to be included.

² The Field Examiner reported that the Union submitted 695 membership designation cards and that there are 1,200 employees in the alleged appropriate unit.

The Company employs 16 pattern makers at its Bristol plant. Their work is under the supervision of the production department in fabrication. In prior proceedings in which consent elections were held under Board auspices among the production employees,³ the parties agreed to exclude pattern makers from the unit.⁴ Pattern makers comprise a well-established and highly skilled craft group; as such, their interests differ somewhat from those of the other production workers. Moreover, the Union stated at the hearing that it has not attempted to organize the pattern makers. In a number of cases we have had occasion to establish such employees as a separate craft unit. In view of these facts, we shall exclude the pattern makers from the unit.

Direct supervisory authority at the Bristol plant of the Company originates with the plant manager who has under him, in the order named, the following supervisory employees: an assistant plant manager, a production superintendent, four area superintendents, assistant area superintendents, department foremen, day foremen and shift foremen. Group leaders in the plant are responsible to the shift foremen and make oral reports to them on the work performed in their respective groups. These group leaders assign specific jobs to the men on their teams and they direct their men on such jobs to the extent that a first-class mechanic directs his helpers. They are not, however, responsible for the conduct of the men in their group and they have no authority to discipline, transfer, hire, discharge, or promote any of these men, nor may they effectively recommend such action. Their directive duties are attributable mainly to the fact that they are more highly skilled than the employees in their groups. They are paid on an hourly basis and receive 6 cents an hour more than regular production workers; but first-class mechanics at the plant have the same wage differential. The Company stated at the hearing that it was reorganizing its method of compensation for its supervisory employees and that by July 16, 1945, all supervisory employees were to be on a salary basis. Group leaders, however, will remain on an hourly basis. It is apparent that group leaders do not possess supervisory authority according to our customary definition; we shall include them in the unit.

We find that all hourly paid production and service employees of the Company at its Bristol plant, including departmental control laboratory employees, gardeners, yard truck drivers, common laborers, fire marshals, receiving and shipping department employees, and group leaders, but excluding office clerical employees, guards, general maintenance employees, departmental maintenance employees, powerhouse

³ See *Matter of Rohm and Haas Company*, Cases Nos. 4-R-1462 and 4-R-1615, in which no bargaining representatives were selected.

⁴ The pattern makers are also excluded from a maintenance unit established by the Board and represented by the International Union of Operating Engineers, Local 541, AFL. See *Matter of Rohm and Haas Company*, 51 N. L. R. B 1232.

employees, pattern makers, research and development laboratory employees (laboratories 2, 3, 4, 7, 8, 10, 11, and 27), 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.

V. THE DETERMINATION OF REPRESENTATIVES

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—Series 3, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Rohm and Haas Company, Bristol, 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 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 or not they desire to be represented by Federation of Glass, Ceramic and Silica Sand Workers of America, CIO, for the purposes of collective bargaining.