

In the Matter of SIOUX CITY BREWING COMPANY *and* INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA, GENERAL DRIVERS UNION, LOCAL NO. 383, A. F. OF L.

*Case No. 18-R-1301.—Decided September 19, 1945*

*Messrs. Herman Galinsky and Joseph E. Miller, of Sioux City, Iowa, for the Company.*

*Messrs. Padway and Goldberg, of Milwaukee, Wis., and Messrs. Glenn W. Beman and Frank Santi, of Sioux City, Iowa, for the Teamsters.*

*Mr. Otto Wagner, of Minneapolis, Minn., and Mr. Floyd N. Searl, of Sioux City, Iowa, for the Brewery Workers.*

*Mr. Philip Licari, of counsel to the Board.*

## DECISION

AND

## DIRECTION OF ELECTION

### STATEMENT OF THE CASE

Upon a petition duly filed by International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, General Drivers Union, Local No. 383, A. F. of L., herein called the Teamsters, alleging that a question affecting commerce had arisen concerning the representation of employees of the Sioux City Brewing Company, Sioux City, Iowa, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Stephen M. Reynolds, Trial Examiner. Said hearing was held at Sioux City, Iowa, on June 9, 1945. The Company, the Teamsters, and International Union of United Brewery, Flour, Cereal, and Soft Drink Workers of America, Brewery and Soft Drink Local Union 178, herein called the Brewery Workers, appeared and participated. 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. The Brewery Workers' request for oral argument is hereby denied.

63 N. L. R. B. No. 153.

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

### FINDINGS OF FACT

#### I. THE BUSINESS OF THE COMPANY

Sioux City Brewing Company, an Iowa corporation, is engaged at Sioux City, Iowa, in the manufacture and sale of beer. During the first 4 months of 1945 the Company purchased raw materials valued at approximately \$79,487, of which 70.4 percent was shipped from points outside the State of Iowa. During the same period the Company-sold beer valued at approximately \$512,000, of which 13.6 percent was delivered to points outside the State of Iowa.

The Company admits, and we find, that it is engaged in commerce within the meaning of the Act.

#### II. THE ORGANIZATIONS INVOLVED

International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, General Drivers Union, Local No. 383, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

International Union of United Brewery, Flour, Cereal, and Soft Drink Workers of America, Brewery and Soft Drink Local Union 178, unaffiliated, is a labor organization admitting to membership employees of the Company.

#### III. THE QUESTION CONCERNING REPRESENTATION

On March 28, 1945, the Teamsters asked the Company for recognition as the sole bargaining representative of certain of its employees. The Company refused to accord such recognition.<sup>1</sup>

A statement of a Field Examiner for the Board, introduced into evidence at the hearing, indicates that the Teamsters represents a substantial number of employees in the unit it alleges to be appropriate.<sup>2</sup>

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

<sup>1</sup> In its brief, the Brewery Workers contends for the first time that an oral agreement made prior to the Teamsters' notice of claim to representation extended an expired contract with the Company and constitutes a bar to a present determination of representatives. We find this contention to be without merit. See *Matter of Evcor, Inc.*, 46 N. L. R. B. 1035.

<sup>2</sup> The Field Examiner reported that the Teamsters submitted seven application cards of employees whose names appeared on the Company's pay roll of May 17, 1945. The cards were dated between March and April 1945. He further reported that there were approximately seven employees in the unit alleged to be appropriate by the Teamsters.

The Brewery Workers relies on its contractual relationship with the Company as evidence of its interest in this proceeding.

## IV. THE APPROPRIATE UNIT

The Teamsters seeks a unit of all the Company's city and country drivers, excluding extra drivers<sup>3</sup> and all supervisory employees. The Company takes no position with respect to the appropriateness of any unit, but the Brewery Workers opposes the establishment of the unit sought on the ground that past collective bargaining has been successfully conducted with the Company on the basis of a plant-wide unit including city and country drivers.

The Company employs approximately seven drivers whose functions are to drive trucks for the Company and sell and deliver beer to customers residing in and about Sioux City, Iowa. Since 1911, these employees have been bargained for by the Brewery Workers in a plant-wide unit. It appears, however, that at a meeting held sometime in 1944, the rank and file of the Brewery Workers voted to relinquish jurisdiction over the city and country drivers,<sup>4</sup> and these drivers subsequently designated the Teamsters as their collective bargaining representative.<sup>5</sup> It further appears that the drivers possess special skills which distinguish them from the Company's other employees. Under all the circumstances, we are of the opinion that the craft unit sought is appropriate for collective bargaining purposes.

We find that all the Company's city and country drivers, excluding extra drivers 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 payroll 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

<sup>3</sup> These drivers are not regarded as regular employees of the Company.

<sup>4</sup> Subsequently, the Brewery Workers' International disavowed this action.

<sup>5</sup> See footnote 2, *supra*.

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Sioux City Brewing Company, Sioux City, Iowa, 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 Eighteenth 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 Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, General Drivers Union, Local No. 383, A. F. of L., or by International Union of United Brewery, Flour, Cereal, and Soft Drink Workers of America, Brewery and Soft Drink Local Union 178, for the purposes of collective bargaining, or by neither.