

In the Matter of RIVER VALLEY TISSUE MILLS, INC. and PAPER
WORKERS ORGANIZING COMMITTEE, CIO

Case No. 3-R-1023.—Decided October 3, 1945

Mr. H. Duane Bruce, of Syracuse, N. Y., for the Company.

Mr. Frederick D. Sandner, of Fulton, N. Y., for the Union.

Mr. Nathan Saks, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Paper Workers Organizing Committee, CIO, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of River Valley Tissue Mills, Inc., West Phoenix, New York, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Eugene von Wellsheim, Trial Examiner. Said hearing was held at Fulton, New York, on June 25, 1945. The Company and the Union appeared and participated. All the 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

River Valley Tissue Mills, Inc., a New York corporation, operates a plant at West Phoenix, New York, where it is engaged in the manufacture of paper. During the past year, the Company used raw materials valued at approximately \$90,000, approximately 60 percent of which came from points outside the State of New York. During the same period, the Company's sales amounted to approximately

\$200,000 in value, approximately 45 percent of which represented shipments to points outside the State.

We find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

Paper Workers Organizing Committee, 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.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 Union seeks a unit of all production and maintenance employees of the Company, excluding office employees and supervisory employees. The Company agrees generally with the appropriateness of this unit.

Yard and Shipping Foreman: The Union would include this employee in the unit, while the Company takes no position with respect to his inclusion or exclusion. The evidence indicates that this employee's authority is restricted to instructing the other employees in his department in the performance of their work. Like the other production employees, he performs manual work, and is paid on an hourly basis. He has no authority to effect changes in the status of any employees, or effectively recommend such action. Accordingly, we shall include him in the unit.

We find, in accordance with the agreement of the parties and our foregoing determination, that all production and maintenance employees of the Company at its West Phoenix, New York, plant, including firemen² and the Yard and Shipping Foreman, but exclud-

¹ The Field Examiner reported that the Union submitted 27 authorization cards; that all 27 cards were dated May 1945; and that there were 27 employees in the alleged appropriate unit.

² The evidence indicates that the firemen also act as watchmen; they are neither armed, deputized, nor uniformed.

ing all office employees 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 River Valley Tissue Mills, Inc., West Phoenix, New York, 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 Third 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 or not they desire to be represented by Paper Workers Organizing Committee, CIO, for the purposes of collective bargaining.