

In the Matter of CALIFORNIA DOOR COMPANY and LUMBER & SAWMILL
WORKERS UNION, No. 2760, A. F. L.

Case No. 20-R-1357.—Decided October 10, 1945

Mr. C. G. Price, of Diamond Springs, Calif., for the Company.

Mr. J. S. Hazard, of San Francisco, Calif., and Mr. Lindley O. Kearns, of Diamond Springs, Calif., for the A. F. L.

Mr. Joseph F. Clark, of Susanville, Calif., and Mr. R. B. Johnson, of Placerville, Calif., for the C. I. O.

Mr. David V. Easton, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

Upon a petition duly filed by Lumber & Sawmill Workers Union No. 2760, A. F. L., herein called the A. F. L., alleging that a question affecting commerce had arisen concerning the representation of employees of California Door Company, Diamond Springs, 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 Placerville, California, on July 2, 1945. The Company, the A. F. L., and International Woodworkers of America, Local Union 286, herein called the C. I. O., 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 C. I. O. moved at the hearing for a dismissal of the petition herein. The Trial Examiner reserved ruling upon this motion for the Board. For reasons stated in Section III, *infra*, the motion is granted. 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

California Door Company, a California corporation, is engaged in felling timber, transporting logs, and manufacturing lumber. The

Company maintains a logging camp near Caldor, Eldorado County, California, from which logs are carried via the Company's railroad to its sawmill at Diamond Springs, California. We are concerned herein with the Company's logging operations. Approximately 90 percent of the logs used at the sawmill is obtained from these operations; the balance is purchased in the open market. During the year 1944, the Company produced at its sawmill approximately 24 million board feet of lumber valued at approximately \$200,000, of which about 20 percent was shipped to 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

Lumber & Sawmill Workers Union, No. 2760, affiliated with the American Federation of Labor, and International Woodworkers of America, Local 286, affiliated with the Congress of Industrial Organizations, are labor organizations admitting to membership employees of the Company.

III. THE ALLEGED QUESTION CONCERNING REPRESENTATION

By letter dated January 5, 1945, the A. F. L. requested recognition from the Company as the representative of its logging employees. The Company made no reply thereto, and on March 29, 1945, the A. F. L. filed the petition herein.

As previously noted, the Company operates a logging camp and a sawmill connected by a company-owned railroad. Because of severe weather conditions, the operations of the logging camp are usually suspended between the months of December and April, and the crew engaged at these operations is, for the most part, laid off until such operations resume. On October 11, 1943, the C. I. O. was certified by the Board as the exclusive representative of the logging employees.¹ Shortly thereafter, the C. I. O. held several membership meetings to determine what demands should be made upon the Company. By the time these demands were determined, the winter shut-down of the Company's logging operations had taken place, and the crew had been disbanded. However, previous thereto, a group of the C. I. O.'s officers had been authorized by the crew to negotiate with the Company during the shut-down, and this group met with representatives of the Company to negotiate the terms of a contract, with the understanding by both the Company and the C. I. O. that any agreement reached was to be subject to the approval of the employees. Such approval, of course, could be obtained only after the resumption of the logging

¹For Decision and Direction of Election, see *Matter of California Door Company*, 52 N. L. R. B. 68.

operations in the spring. Although agreement was reached between the parties upon some of the points proposed by the C. I. O., they became dead-locked on others and they agreed to defer further discussions of these issues until the resumption of logging operations.

In addition to the negotiations upon the C. I. O.'s proposals mentioned above, the parties apparently also discussed the C. I. O.'s 1943 industry-wide demands. The parties agreed with respect to some of these industry-wide demands, but they reached an impasse on the majority of them. The resulting dispute was submitted to the National War Labor Board for determination some time in January 1944.²

The Company's logging operations resumed in April 1944. In May or June of that year, the C. I. O. again met with the Company, at which time the parties agreed to postpone further discussion until the National War Labor Board issued a directive with respect to the C. I. O.'s 1943 industry-wide demands, since these demands, the parties realized, were similar to those matters upon which they had deferred negotiations.

Subsequently the C. I. O. presented to the Company its 1944 industry-wide demands upon the assumption that any agreement reached thereon was to be incorporated into the contract resulting from the proceedings then before the National War Labor Board. There was disagreement upon virtually all the 1944 industry-wide demands, and in December 1944, a conciliator was called upon to assist in the negotiations. As indicated above, the A. F. L. then notified the Company of its claim to representation on January 5, 1945, and on January 15, the Company informed the conciliator, that because of this claim, it could not sign any contract with the C. I. O. The conciliator certified the dispute on the 1944 industry-wide demands to the National War Labor Board on February 8, and these issues are apparently still pending before that agency.

On February 22, 1945, the National War Labor Board issued a directive concerning the 1943 industry-wide demands. On March 29, the A. F. L. filed the petition in the instant proceeding,³ and, thereafter, the Company refused to enter into any contract with the C. I. O. on the ground that an unresolved question concerning representation existed.

The C. I. O. argues, in effect, that the doctrine of the *Allis-Chalmers* case⁴ is applicable to the facts herein, and that it should be permitted a reasonable time within which to conclude an agreement with the

² N W L B Case No 111-6087-D

³ The A. F. L. had previously filed a petition for certification of representatives of the Company's employees in June 1944. In October of that year, the petition was dismissed administratively by the Regional Office.

⁴ *Matter of Allis-Chalmers Manufacturing Company*, 50 N. L. R. B. 306

Company. We agree. Within the first year of the C. I. O.'s certification the parties reached an impasse in several matters and these issues were submitted to the National War Labor Board for determination. It is clear that we would not have directed an election while the proceedings before that agency were pending.⁵ Not until February 1945 did the National War Labor Board issue a directive, and, because of the nature of the Company's seasonal operations and the commitment of the parties based thereon, the C. I. O. and the Company were in no position to execute a collective bargaining agreement incorporating the provisions of the directive until April 1945. By that time, however, the Company was confronted with the demand of a rival labor organization and the fact that a representation petition filed by that organization was then pending before this Board, and it refused to sign any contract with the C. I. O. Thus, we are satisfied, the C. I. O. did not have a reasonable opportunity to obtain a contract from the Company and serve as the certified bargaining representative of the logging employees. Accordingly, we find that no question affecting commerce exists at this time concerning the representation of these employees.⁶ The A. F. L.'s petition for certification of representatives will be dismissed.⁷

ORDER

Upon the basis of the foregoing findings of fact, and upon the entire record in the case, the National Labor Relations Board hereby orders that the petition for investigation and certification of representatives of employees of California Door Company, Diamond Springs, California, filed by Lumber & Sawmill Workers Union, No. 2760, A. F. L., be, and it hereby is, dismissed.

⁵ See *Matter of Aluminum Company of America*, 53 N. L. R. B. 593; *Matter of Kennecott Copper Corporation*, 51 N. L. R. B. 1140.

⁶ We are of the opinion that the issues before the National War Labor Board relating to the C. I. O.'s 1944 industry-wide demands do not warrant a contrary conclusion. They are merely cumulative to the matters disposed of by the February 5, 1945, directive, which was contemplated by the Company and the C. I. O. as constituting the basis for their initial contract.

⁷ Cf. *Matter of Jackson Box Company*, 59 N. L. R. B. 808, in which we directed an election. In that case more than a year elapsed between the effective date of a directive of the War Labor Board disposing of matters in dispute between the employer and a union designated as bargaining agent of the employees concerned and the date a rival labor organization filed its petition for certification of representatives. There, moreover, the employer and the designated union were not handicapped in reaching an agreement because of a normal cessation of operations and disbanding of employees.