

In the Matter of PARAGON PACKING COMPANY *and* INTERNATIONAL  
UNION OF OPERATING ENGINEERS, LOCAL No. 87, AFL

*Case No. 19-R-1562.—Decided October 10, 1945*

*Mr. Frank B. Kistner*, of Astoria, Oreg., for the Company.

*Mr. Henry Niemela*, of Astoria, Oreg., for the C. I. O.

*Mr. C. R. Owen*, of Portland, Oreg., for the Operating Engineers.

*Mr. Stanley B. Korengold*, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

Upon a petition duly filed by International Union of Operating Engineers, Local Union No. 87, AFL, herein called the Operating Engineers, alleging that a question affecting commerce had arisen concerning the representation of employees of Paragon Packing Company, Astoria, Oregon, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Erwin A. Peterson, Trial Examiner. Said hearing was held at Astoria, Oregon, on June 25, 1945. The Company, the Operating Engineers, and the Columbia River Fishermen's Protective Union, C. I. O., 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 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

Paragon Packing Company, an Oregon corporation, is engaged in the general fish business. The Company's main office and principal place of business is at Astoria, Oregon, in addition to which it also

maintains a processing plant at Hoquiam, Washington. Only the Company's Astoria operations are involved in this proceeding. The Company employs at its Astoria plant during its peak season approximately 200 people. During the year 1944 the Company's sales were valued in excess of \$500,000, approximately 90 percent of which represents sales and shipments to purchasers located outside the State of Oregon.

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

## II. THE ORGANIZATIONS INVOLVED

International Union of Operating Engineers, Local Union No. 87, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

Columbia River Fishermen's Protective Union, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

## III. THE ALLEGED APPROPRIATE UNIT

In December 1942, the Operating Engineers petitioned the Board for certification as the exclusive bargaining representative of all operating engineers and apprentices employed by the Company. The Board dismissed the petition upon finding that the bargaining unit sought was inappropriate.<sup>1</sup> On April 26, 1945, the Operating Engineers again filed a petition with the Board requesting certification in a bargaining unit of operating engineers. The Company contends that the unit sought is inappropriate and also that the Company's contract with the C. I. O. constitutes a bar. In view of our finding as to the appropriate unit, hereinafter set forth, it is unnecessary to determine the issue raised by the Company with respect to the contract.

The Company employs five operating engineers, one of whom occupies the position of chief engineer. The operating engineers work in the cold storage department, operating and maintaining the Company's refrigeration equipment; they regulate and control temperatures in the ice tanks and in the freezing and cold storage rooms. The operating engineers, as a whole, are not skilled craftsmen;<sup>2</sup> most of them received their training and experience in refrigeration mechanics after being employed by the Company. Although the Company previously required its operating engineers to serve an apprenticeship of at least 6 months, it now permits them to assume the full responsibilities of their job with no more than a single month's train-

<sup>1</sup> *Matter of Paragon Packing Company*, 52 N. L. R. B. 538.

<sup>2</sup> The chief engineer, a skilled mechanic, is the sole person qualified to repair the plant's refrigeration equipment.

ing. The record also indicates that the operating engineers receive the same rate of pay as the cold storage workers and occasionally do repair work similar to that performed by other maintenance employees in the plant.

In the earlier proceeding, we held that the operating engineers were not a skilled craft group entitled to recognition in a separate bargaining unit.<sup>3</sup> The record here presents no evidence that the duties of the operating engineers have materially changed since that decision. Although the operating engineers now devote a greater part of their time to strictly refrigeration work, we do not deem this fact, by itself, sufficient reason to warrant a reversal of our previous determination. Accordingly, we find that the bargaining unit sought by the Operating Engineers is inappropriate for the purposes of collective bargaining.

#### IV. THE ALLEGED QUESTION CONCERNING REPRESENTATION

Since, as we have held in Section III, above, the unit sought by the Operating Engineers is inappropriate for the purposes of collective bargaining, we find that no question affecting commerce has arisen concerning the representation of employees of the Company within the meaning of Section 9 (c) of the National Labor Relations Act. We shall, therefore, dismiss the petition.

#### ORDER

Upon the basis of the foregoing findings of fact and 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 Paragon Packing Company, Astoria, Oregon, filed by International Union of Operating Engineers, Local Union No. 87, AFL, be, and it hereby is, dismissed.

<sup>3</sup> See footnote 1, *supra*.