

In the Matter of THE PHOENIX TOILET & PAPER MANUFACTURING COMPANY, INC. and PAPER WORKERS ORGANIZING COMMITTEE, C. I. O.

*Case No. 3-R-1030.—Decided October 18, 1945*

*Messrs. Hiscock, Cowie, Bruce, Lee & Mahenney, by Mr. Duane Bruce, of Syracuse, N. Y., and Mr. Irving S. Wood, of Phoenix, N. Y., for the Company.*

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

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

## DECISION

AND

## DIRECTION OF ELECTION

### STATEMENT OF THE CASE

Upon a petition duly filed by Paper Workers Organizing Committee, C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of The Phoenix Toilet & Paper Manufacturing Company, Inc., 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. The hearing was held at Phoenix, New York, on July 18, 1945. The Company and the Union 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

The Phoenix Toilet & Paper Manufacturing Company, Inc., is a New York corporation engaged in the manufacture of toilet paper. It operates in connection with its paper production a paper mill and

a converting mill, located at Phoenix, New York. During the past year the Company purchased raw materials consisting of ground wood and sulphite valued in excess of \$50,000, of which over 40 percent was shipped to the Company from points outside the State of New York. During the same period the Company's finished products were valued at approximately \$120,000, of which 50 percent was shipped to points outside the State of New York.

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 the Company's 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.<sup>1</sup>

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

We find, in substantial agreement with the parties, that all production and maintenance employees of the Company, excluding office and clerical workers, the plant superintendents, and all other 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-

<sup>1</sup> The Field Examiner reported that the Union submitted 19 authorization cards; that of these 15 were dated May 1945 and 4 were dated June 1945; and that there are 34 persons in the alleged appropriate unit.

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 The Phoenix Toilet & Paper Manufacturing Company, Inc., 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 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 any 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, C. I. O., for the purposes of collective bargaining.

MR. GERARD D. REILLY took no part in the consideration of the above Decision and Direction of Election.