

In the Matter of ARMOUR & COMPANY and UNITED PACKINGHOUSE
WORKERS OF AMERICA, LOCAL 54, CIO

Case No. 16-R-1441.—Decided October 23, 1945

Mr. J. C. Moore, of Chicago, Ill., and *Mr. David Barron*, of Fort Worth, Tex., for the Company.

Messrs. L. R. Hoover and *W. L. McMahon*, of Fort Worth, Tex., for the Union.

Mrs. Augusta Spaulding, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon petition duly filed by United Packinghouse Workers of America, Local 54, CIO, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Armour & Company, Fort Worth, Texas, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before William J. Scott, Trial Examiner. The hearing was held at Fort Worth, Texas, on September 7, 1945. The Company and the Union appeared, participated, and 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 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

Armour & Company is an Illinois corporation, engaged in meat processing. Its packing plant at Fort Worth, Texas, is the only plant involved in this proceeding. During 6 months of 1943 the Company received at its Fort Worth plant approximately 48,592 tons of raw materials and supplies, of which tonnage approximately 19

percent originated in States other than Texas. During the same period the Company made shipments approximating 69,316 tons of meats and other animal products, of which tonnage approximately 48 percent was shipped to points outside the State of Texas.

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

II. THE ORGANIZATION INVOLVED

United Packinghouse Workers of America, Local 54, is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

III. THE QUESTIONS CONCERNING REPRESENTATION

On July 25, 1945, the Union asked the Company to recognize it as the exclusive bargaining representative of the Company's employees within an alleged appropriate unit. The Company refuses to accord the Union such recognition unless and until the Union is certified by the Board.

A statement of a Field Examiner for the Board, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in its proposed unit.¹

We find that questions affecting commerce have 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 UNITS

The Union contends that all city truck drivers, garage employees, city and country truck maintenance employees, and wholesale market employees at the Company's Fort Worth plant, excluding market office clerical employees, salesmen, truck drivers in the country trucking division, and all supervisory employees, constitute an appropriate bargaining unit, and requests that, if it be selected as a bargaining representative by these employees, it be permitted to bargain for them as part of a larger group of production and maintenance employees of the Company, for whom it is the recognized bargaining representative.² The Company contends that country truck maintenance employees should not be included in the same bargaining unit with city truck drivers, garage employees, city truck maintenance employees, and wholesale market employees; and that wholesale market employ-

¹ The Field Examiner reported that the Union submitted 15 membership cards, of which 8 are dated in July 1945, and 7 are undated. There are approximately 27 employees in the unit proposed by the Union.

² The Union is the recognized bargaining representative of production and maintenance workers at several of the Company's meat processing plants and customarily negotiates with the Company a master contract covering all such employees.

ees should not be included in the same bargaining group with production and maintenance employees of meat processing plants.

The Company's meat packing operations at the Fort Worth plant include three principal operations, (1) the purchase of raw materials, (2) the processing of raw materials, and (3) the sale of finished products. These activities are in charge of department supervisors under the general over-all supervision of the general plant manager at Fort Worth. All employees in the unit proposed by the Union fall within these groups except country truck maintenance employees. Country truck maintenance employees and country truck drivers are subject to the immediate direction and control of the traffic manager in charge of transportation at Fort Worth and, through him, to the control of the Company's Chicago office. The traffic manager, and not the general plant manager, hires and discharges employees in the country trucking division. Country truck maintenance employees work in a garage apart from city truck maintenance employees, and they have store-rooms, tools, and other equipment restricted to their use. Employees in the country trucking division are subject to the regulations of the Interstate Commerce Commission. Other employees in the proposed unit are not so subject.

In an earlier representation proceeding involving employees of the Company, we found that production and maintenance employees at the Company's Fort Worth plant, excluding, *inter alia*, truck drivers and wholesale market employees, constituted an appropriate bargaining unit,³ and, on March 20, 1943, we certified the Union as their bargaining representative. Subsequently, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local 47, herein called the Teamsters, filed a petition for investigation and certification of representatives, alleging that truck drivers in the Company's country trucking division at Fort Worth constituted a separate appropriate bargaining unit. In our decision rendered pursuant to this petition,⁴ we excluded from the unit of truck drivers in the country trucking division both city truck drivers, who are under the management of the wholesale market delivery and the general plant manager, and not subject to the regulations of the Interstate Commerce Commission, and country truck maintenance workers, who were under the same supervision as the country truck drivers and subject to the regulations of the Interstate Commerce Commission but who did not come under the craft jurisdiction of the Teamsters and consequently had not been organized by that labor organization. The Union herein seeks to represent country truck maintenance employees on the basis of its industrial jurisdiction and organization. Since coun-

³ *Matter of Armour & Company*, 47 N. L. R. B. 1236.

⁴ *Matter of Armour & Company*, 53 N. L. R. B. 519.

try truck maintenance employees are, like the drivers of the trucks they service, subject to the regulations of the Interstate Commerce Commission and constitute part of a special division of the Company's operations at Fort Worth, and are thus distinguished by their work and supervision from other employees in the proposed unit, and since bargaining units among the Company's employees have been defined by plant, craft, or department lines, we believe that country truck maintenance employees constitute a separate appropriate unit for bargaining purposes.

As noted above, the Union requests that if it be designated as bargaining representative by a majority of employees in its proposed unit, these employees should constitute part of a large bargaining group which includes plant production and maintenance employees of the Company represented by the Union and for which the Union negotiates one master contract. Since country truck maintenance employees belong to a separate administrative division of the Company's operations, and since wholesale marketing employees are not customarily included in the same bargaining unit with production and maintenance employees working in processing plants, we will not grant the Union's request with respect to the inclusion of these employees in its bargaining group of production and maintenance employees. We will find, as appropriate, separate bargaining units for the employees covered by the petition and leave to the convenience of the parties their contract negotiations covering these employees.

We find that all city truck drivers, garage employees, city truck maintenance employees, and wholesale market employees at the Company's Fort Worth plant, excluding market office clerical employees, salesmen, country truck drivers, and country truck maintenance employees in the country trucking division, 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.

We further find that all country truck maintenance employees, excluding country truck drivers, clerical 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 questions concerning representation which have arisen be resolved by separate elections by secret ballot among the employees in the respective appropriate units who were employed

during the pay-roll period immediately preceding the date of the Direction of Elections herein, subject to the limitations and additions set forth in the Direction.

DIRECTION OF ELECTIONS

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 Armour & Company, Fort Worth, Texas, elections 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 Sixteenth 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 employees in the units respectively 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 elections, to determine whether or not they desire to be represented by United Packinghouse Workers of America, Local 54, CIO, for the purposes of collective bargaining.

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