

In the Matter of ARMOUR & COMPANY, BRANCH HOUSE and UNITED
PACKINGHOUSE WORKERS OF AMERICA, CIO

Case No. 5-R-1966.—Decided November 5, 1945

Messrs. Emmett White and Clarence Franklin Lewis, of Wilson, N. C., for the Company.

Mr. G. R. Hathaway, of Atlanta, Ga., and Mr. D. M. Evans, of Wilson, N. C., for the Union.

Mr. John A. Nevros, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Packinghouse Workers of America, CIO, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Armour & Company, Branch House, Wilson, North Carolina, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Sidney J. Barban, Trial Examiner. The hearing was held at Wilson, North Carolina, on August 1, 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 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, an Illinois corporation, operates approximately 300 branch houses throughout the United States. This proceeding is concerned solely with the branch house located in Wilson, North Carolina, where the Company manufactures sausages and boiled hams.

During the year 1944, the Company purchased for its Wilson, North Carolina, branch house raw materials valued in excess of \$50,000, 90 percent of which represented shipments from points outside the State of North Carolina. During the same period the Company's finished products exceeded \$75,000 in value, all of which were sold within the State of North Carolina.

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 is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On November 10, 1944, an election was held pursuant to our Decision and Direction of Election¹ among the Company's production and maintenance employees, including truck drivers, with only the Union on the ballot. The Union lost the election. On May 28, 1945, the Union filed its petition herein alleging the same unit as appropriate. At the hearing the Company stated that it would refuse to recognize the Union until it 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.²

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 accordance with the stipulation of the parties, that all production and maintenance employees³ of the Company including truck drivers, but excluding engineers, assistant engineers, clerical employees, salesmen, shipping clerks, assistant shipping clerks, foremen, assistant foremen, and all or any other supervisory employees

¹ *Matter of Armour & Company, Branch House*, 58 N. L. R. B. 1270.

² The Field Examiner reported that the Union submitted 36 authorized membership cards, that there are approximately 43 employees in the appropriate unit, and that all the cards bear dates subsequent to the November 10, 1944 election.

³ This includes the following employee classifications: linkers, packers, stuffers, grinders, luggers, choppers, drivers, boners, smokers, and foreladies. With respect to the foreladies, the parties agree and we find that these employees are not supervisory employees within the Board's customary definition.

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.⁴

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 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 Armour & Company, Branch House, Wilson, North Carolina, 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 Fifth 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 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 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 United Packinghouse Workers of America, CIO, for the purposes of collective bargaining.

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

⁴ As noted above, the same unit was found appropriate by the Board in a prior proceeding (see footnote 1, *supra*).