

In the Matter of SARGENT & Co. and INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA, LOCAL No. 90, A. F. of L.

Case No. 18-R-1340.—Decided November 21, 1945

Messrs. A. E. Sargent and George Heaps, Jr., of Des Moines, Iowa, for the Company.

Messrs. Leo Quinn and Thomas E. Jones, of Des Moines, Iowa, for the Teamsters.

Mr. Fred Baker, of Des Moines, Iowa, for the Engineers.

Mr. Donald B. Brady, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, Local No. 90, A. F. of L., herein called the Teamsters, alleging that a question affecting commerce had arisen concerning the representation of employees of Sargent & Co., Des Moines, Iowa, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Stanley D. Kane, Trial Examiner. The hearing was held at Des Moines, Iowa, on July 27, 1945. The Company, the Teamsters and International Union of Operating Engineers, herein called the Engineers, appeared and participated.¹ All parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. The Engineers filed a document in the nature of a motion to dismiss the petition on the ground that the Engineers is the statutory representative of the employees involved in this proceeding. The motion is denied. 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.

¹ The Engineers' motion to intervene was granted by the Trial Examiner.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Sargent & Co. is an Iowa corporation having its principal office and place of business in Des Moines, Iowa, where it is engaged in the manufacture and distribution of mill feeds and grain products. The Company annually purchases merchandise valued in excess of \$2,000,000, which is shipped to the plant from without the State of Iowa. Approximately \$500,000 worth of its products are annually sold and shipped to consumers in States other than the State of Iowa.

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

II. THE ORGANIZATIONS INVOLVED

International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, Local No. 90, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

International Union of Operating Engineers, Local No. 268, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Teamsters, by a letter dated June 28, 1945, requested that the Company recognize it as the exclusive bargaining representative for all employees in the unit claimed to be appropriate. The Company has refused to recognize the Teamsters as the collective bargaining agent for its employees until the Teamsters has been certified by the Board. The Engineers had a yearly contract with the Company which expired on March 31, 1945. Although the Company and the Engineers are presently engaged in negotiating a new contract, there is no collective bargaining agreement now in existence to bar a determination of representatives.

A statement of a Field Examiner, introduced into evidence at the hearing, indicates that the Teamsters represents a substantial number of employees in the unit hereinafter found appropriate.²

² The Field Examiner reported that the Teamsters submitted 20 authorization cards all of which bore names of persons appearing on the Company's pay roll for the period ending July 3, 1945, containing 24 persons in the appropriate unit. All of the cards were dated in June 1945. The Engineers relies on its recent contract as evidence of its interest

: 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 the Company's production and maintenance employees, including warehousemen, leadmen or working foremen, grain cleaners, elevator operators, mixing machine operators, oilers, packers, sackmen, and truckers, but excluding the superintendent in charge of production, the superintendent, all office clerical employees, salesmen and truck drivers,³ 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 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 payroll 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 Sargent & Co., Des Moines, Iowa, 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 Eighteenth 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 payroll period immediately preceding the date of this Direction, including employees who did not work during said

³ The Teamsters has a contract with the Company for a unit composed of truck drivers.

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 they desire to be represented by International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, Local No. 90, affiliated with the American Federation of Labor or by International Union of Operating Engineers, Local 268, affiliated with the American Federation of Labor, for the purposes of collective bargaining, or by neither.

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