

In the Matter of ANDERSON BROTHERS LUMBER COMPANY *and* LUMBER
AND SAWMILL WORKERS UNION, LOCAL 2701, AFL

Case No. 19-R-1579.—Decided November 27, 1945

Messrs. Theodore R. Conn, R. A. McDonald, and A. E. Anderson, of Lakeview, Oreg., for the Company.

Mr. S. D. Nelson, of Lakeview, Oreg., and Mr. Donald Gilman, of Klamath Falls, Oreg., 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 Lumber and Sawmill Workers Union, Local 2701, A. F. of L., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Anderson Brothers Lumber Company, Lakeview, Oregon, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before William H. Bartley, Trial Examiner. The hearing was held at Lakeview, Oregon, on August 15, 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. At the hearing the Company moved to dismiss the petition on the ground that the Union had failed to make a sufficient showing of representation among the employees in the unit petitioned for. The Trial Examiner reserved ruling on this motion for the Board. For reasons set forth in Section III, *infra*, 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 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

Anderson Brothers Lumber Company, a partnership is engaged in a sawmill and logging operation; its sawmill is located at Lakeview,

64 N. L. R. B., No. 166

Oregon, and it conducts its logging operations in Lake County, Oregon. More than 50 percent of its finished products, valued in excess of \$500,000 annually, is shipped to points 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 ORGANIZATION INVOLVED

Lumber and Sawmill Workers Union Local 2701, is a labor organization, affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On May 15, 1945, the Union requested but was refused recognition as the exclusive bargaining representative of certain of the Company's employees.

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.¹

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 accord with the stipulation of the parties, that all production and maintenance employees in the sawmill, yard and logging operation except for clerical employees and supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such

¹ The Field Examiner reported that the Union submitted 27 application for membership cards, all of which bore apparently genuine signatures and were listed on the Company's June 1, 1945 pay roll; that, of the cards, 16 were dated between January and July 1945, 8 were dated between April and December 1944 and 3 were dated in March 1943; and that there are approximately 70 employees in the alleged appropriate unit.

At the hearing, the Company moved to dismiss the petition, contending that the Union has failed to make a showing of present substantial representation. In support of its position it relies on the alleged "antiquity" of some of the Union's cards, and the fact that the names of "considerably less than half of the present number of employees" appeared on the cards. We find no merit in the Company's contention. The Board requires a petitioning union to submit *prima facie* evidence of representation among the employees in the appropriate unit for the sole purpose of determining whether the petitioner has sufficient interest to justify setting in motion the Board's investigatory machinery and not as proof of the precise number of employees who desire to be represented by petitioner. We are of the opinion that the Union's cards, most of which were dated between January and July 1945, show that the Union had a sufficient interest as of the time it filed its petition to warrant our conducting an election. See *Matter of Consolidated Vultee Aircraft Corporation*, 64 N. L. R. B. 400; *Matter of Jasper Char Company*, 63 N. L. R. B. 632; *Matter of Brad Foote Gear Works, Incorporated*, 60 N. L. R. B. 97; *Matter of H. G. Hill Stores, Inc., Warehouse*, 39 N. L. R. B. 874.

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 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 Anderson Brothers Lumber Company, Lakeview, Oregon, an election by secret ballot shall be conducted as early as possible, but not later than sixty (60) days from the date of this Direction, under the direction and supervision of the Regional Director for the Nineteenth 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 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 Lumber and Sawmill Workers Union, Local 2701, A. F. of L., for the purposes of collective bargaining.