

In the Matter of FRIESEN BOX COMPANY and INTERNATIONAL WOOD-
WORKERS OF AMERICA, LOCAL UNION NO. 5-63, CIO

Case No. 19-R-1584.—Decided November 29, 1945

Mr. Oliver S. Bacon, of Taft, Oreg., for the Company.

Mr. A. F. Hartung, of Portland, Oreg., and *Mr. Ernest E. Carlberg*,
of Cutler City, Oreg., for the Union.

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 Woodworkers of America, Local Union No. 5-63, CIO, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Friesen Box Company, Cutler City, Oregon, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Erwin A. Peterson, Trial Examiner. The hearing was held at Taft, Oregon, on September 26, 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

Friesen Box Company, a partnership consisting of John S. Friesen, Anna N. Friesen, Ernest R. Friesen, Willard R. Friesen, and Allen C. Friesen, is licensed to do business in Oregon. The Company operates sawmills at Cutler City and Mowich, Oregon, and a box factory at Salem, Oregon. This proceeding is concerned only with the Cutler City sawmill. At that mill the Company produces between 30,000

and 35,000 board feet of lumber a day, valued at approximately \$30 per thousand feet. Seventy-five percent of the lumber produced by the Company at this mill is shipped to its box factory at Salem, Oregon, and the remaining 25 percent is sold on the open market. The Company ships approximately 85 percent of the finished products of the box factory to points outside the State of Oregon.

The Company does not deny, and we find, that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

International Woodworkers of America, Local Union No. 5-63, 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 its 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.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

The Union seeks a unit of all production and maintenance employees of the Company at its Cutler City plant, excluding office employees and supervisory employees. The Company agrees generally that this unit is appropriate but, contrary to the Union's position, contends that A. Hamilton, millwright, is a supervisory employee who should be excluded from the unit.

The evidence discloses that the only regular full-time supervisory employee employed at the Company's Cutler City operation is the superintendent. The record indicates that it is necessary for the superintendent to be absent from the mill a considerable amount of time. During the absence of the superintendent, Hamilton is in full charge of the mill and during such times has authority to hire and discharge employees. Accordingly, we find that he is a supervisory employee

¹ The Field Examiner reported that the Union submitted a signed authorization petition containing the signatures of 16 persons; that the petition was dated in May 1945; and that there were 18 employees in the alleged appropriate unit.

within the meaning of our customary definition and, as such, we shall exclude him from the unit.

We find, in accordance with the agreement of the parties and our foregoing determination, that all production and maintenance employees of the Company at its Cutler City, Oregon, plant, excluding office 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,² 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-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 Friesen Box Company, Cutler City, 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 the 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 International Woodworkers of America, Local Union No. 5-63, CIO, for the purposes of collective bargaining.

² Including A Hamilton