

In the Matter of C. V. HILL & COMPANY, INC. and UNITED ELECTRICAL,
RADIO & MACHINE WORKERS OF AMERICA, C. I. O.

Case No. 4-R-1809.—Decided November 29, 1945

Mr. Stuart Hill, of Trenton, N. J., for the Company.

Rothbard, Harris & Talisman, by *Mr. Samuel L. Rothbard*, of Newark, N. J., for the U. E.

Messrs. John Spain, Charles B. Dailey, John H. LeCompte, and Donald B. Morton, of Trenton, N. J., for the M. B. S.

Mr. Joseph D. Manders, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Electrical, Radio & Machine Workers of America, C. I. O., herein called the U. E., alleging that a question affecting commerce had arisen concerning the representation of employees of C. V. Hill & Company, Inc., Trenton, New Jersey, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Eugene M. Purver, Trial Examiner. The hearing was held at Trenton, New Jersey, on August 6, 1945. The Company, the U. E., and C. V. Hill Mutual Benefit Society, herein called the M. B. S., 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

C. V. Hill & Company, Inc., a New Jersey corporation, is engaged in the manufacture of refrigerators and refrigeration equipment. The Company's sole plant, located at Trenton, New Jersey, is involved in the present proceeding. The Company annually purchases raw mate-

rials, consisting of steel and wood, valued in excess of \$1,000,000, approximately 80 percent of which is shipped from points outside the State of New Jersey. The Company annually manufactures finished products valued in excess of \$1,000,000, approximately 80 percent of which is shipped to points outside the State of New Jersey.

The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act, and we so find.

II. THE ORGANIZATIONS INVOLVED

United Electrical, Radio & Machine Workers of America is a labor organization, affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

C. V. Hill Mutual Benefit Society is a labor organization, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

In a letter dated June 4, 1945, the U. E. requested recognition as the exclusive bargaining representative of certain of the Company's employees. The Company, in a letter dated June 8, 1945, declined to extend the requested recognition because of its current contractual relations with the M. B. S.

On September 30, 1944, the Company and the M. B. S. entered into a contract effective from that date for a period of 2 years, and subject to a renewal thereafter. The contract, in effect, provided that the Company recognize the M. B. S. as the bargaining agency for its employees. It did not contain substantive provisions in regard to hours, wages, and working conditions. Pursuant to oral collective bargaining between the Company and the M. B. S., the employees received annual bonuses, a dispensary, and improved safety conditions, but written agreements respecting these matters were never consummated.¹ The Company and the M. B. S. contend that their September 1944 contract is a bar to an immediate determination of representatives. It is apparent, however, that the contract lacking substantive terms and conditions of employment is only a recognition agreement,² and the Board has consistently held that such agreements do not operate as a bar in view of their inability to achieve stability in labor relations.³ We, therefore, find that the September 30, 1944, contract does not operate as a bar to this proceeding.⁴

¹ Cf. *Matter of Standard Oil Company*, 63 N. L. R. B. 1223.

² See *Matter of Standard Oil Company of Indiana*, 56 N. L. R. B. 1101.

³ See *Matter of Henry Weis Manufacturing Company, Incorporated*, 49 N. L. R. B. 511; *Matter of Corn Products Refining Company*, 52 N. L. R. B. 1324.

⁴ The finding herein makes it unnecessary to consider whether or not the duration of the contract is reasonable.

A statement of a Board agent, introduced into evidence at the hearing, indicates that U. E. represents a substantial number of employees in the unit hereinafter found appropriate.⁵

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 parties stipulate, and we find, that all production and maintenance employees of the Company, including truck drivers, watchmen, and guards,⁶ but excluding office and clerical employees and all or any 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 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 C. V. Hill and Company, Inc., Trenton, New Jersey, an election by secret ballot

⁵ The Field Examiner reported that the U. E. submitted 238 cards and that the cards are dated April, May, and June 1945, 85 cards were undated. There are approximately 423 employees in the appropriate unit.

The M B S. relies upon its current contract as evidence of its interest. The Field Examiner further reported that Local 469, International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers, A F. L., were requested to submit representation evidence, but failed to do so

At the hearing, the M B S objected, generally, to the Board's procedure of utilizing the Field Examiner's report, based upon a "spot check" of U. E's cards against the Company's pay roll, as a means of determining the U. E's showing. The Trial Examiner referred the objection to the Board for disposition. We find no merit to the objection, and it is herewith overruled

⁶ These employees were covered by the September 1944 contract.

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 Fourth 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 they desire to be represented by United Electrical, Radio & Machine Workers of America, C. I. O., or by C. V. Hill Mutual Benefit Society, for the purposes of collective bargaining, or by neither.