

3. Respondents and each of them have engaged in and are engaging in unfair labor practices within the meaning of Section 8 (b) (1) (A) of the Act, and have restrained and coerced employees of Western, Inc., in the exercise of the rights guaranteed in Section 7 of the Act, by intimidatory conduct designed to prevent said employees from working for Western, Inc., while the strike was in progress and to coerce them into joining with the union adherents in the strike and in other concerted activities.

4. Respondents and each of them have engaged in and are engaging in unfair labor practices within the meaning of Section 8 (b) (4) (A) and (B) of the Act, by inducing and encouraging members of Local No. 303 employed by customers of Western, Inc., to engage in a concerted refusal in the course of their employment to use, handle, or work on Western's products or to perform any services for their respective employers, objects thereof being (a) to force and require their respective employers to cease using, selling, handling, or otherwise dealing in Western's products and to cease doing business with Western, Inc., and (b) to force and require Western, Inc., to recognize and bargain with Local No. 303 as the representative of its employees although said Local had not been certified as the representative of such employees under the provisions of Section 9 of the Act.

5. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2 (6) and (7) of the Act.

[Recommended Order omitted from publication in this volume.]

PINE HALL BRICK AND PIPE COMPANY *and* UNITED STONE AND ALLIED PRODUCTS WORKERS OF AMERICA, CIO, PETITIONER. *Case No. 34-RC-255. February 19, 1951*

Decision and Direction of Election

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Miles J. McCormick, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Pursuant to the provisions of Section 3 (b) of the Act, the Board has delegated its powers in connection with this case to a three-member panel [Chairman Herzog and Members Murdock and Styles].

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act.

2. The labor organization involved claims to represent certain employees of the Employer.

3. A question affecting commerce exists concerning the representation of employees of the Employer within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act.

4. The Petitioner requests a unit of all production and maintenance employees at the Employer's three plants and its central yard,

including employee truck drivers, part-time construction workers, part-time brick masons, and the watchman, but excluding contract truck drivers, office clericals, guards, professional employees, and supervisors as defined in the Act. The Employer contends that each of its plants and its central yard should constitute a separate unit. The Employer also disputes the inclusion of its employee truck drivers.

The Employer manufactures and sells bricks, clay pipe, and other clay products. It maintains a central office and yard in Winston-Salem, North Carolina. Approximately 30 miles from Winston-Salem the Employer has three plants located within 10 miles of each other. At plants 1 and 3 the Employer manufactures bricks and at plant 2 it manufactures vitrified clay pipe, flue lining, wall coating, and other clay products. Bricks and pipe are kept in stock at the Employer's central yard. Separate orders for bricks or pipe are filled from the respective plants, but combined orders for both bricks and pipe are filled from the central yard. The records for the three plants are kept at the central office. Although there is no interchange of production employees, one brick mason does maintenance work at all three plants. In addition, the part-time construction crew and the part-time brick masons perform construction and maintenance work at all three plants. When the truck drivers at the central yard are not engaged in working there, they drive to the plants and operate their trucks as plant trucks. In other respects the plants and the central yard are operated as separate units, having separate payrolls, books, and supervision.

The Employer contends that each of the plants and the central yard should be treated as a separate unit because they are not located together, the plants have separate supervision and records, greater skill is required in the manufacture of the clay products, and because the workweeks at the plants differ.

However, in the absence of any bargaining history, we are persuaded that a single unit for the three plants and the central yard is appropriate, for the following reasons: (a) The plants and the yard are located near enough to each other to facilitate contact among the employees; (b) the Employer's operations are partially integrated through its central office and yard, as outlined above; (c) the truck drivers from the central yard, the roving brick mason, the part-time construction crew and the part-time brick masons perform work at all three plants; (d) the workers at all three plants use allied skills; and (e) all of the workers enjoy the same benefits.¹

The Employer would exclude the *employee truck drivers* at the plants and central yard because it employs some contract drivers and has contemplated hiring only contract drivers. However, the Em-

¹ Cf. *Allied Mills, Inc.*, 89 NLRB 1552; *The Harris-Clay Company*, 88 NLRB 934.

ployer has no immediate plans for replacing the employee drivers.² Therefore, we find that, notwithstanding the fact that the drivers work longer hours and some of them are paid by the tonnage they haul rather than hourly, as are the other employees, they receive the same employee benefits received by the production and maintenance employees and their interests are substantially the same as the interests of the production and maintenance employees. In view of these facts, and because no other union seeks to represent them, we shall include the employee truck drivers in the unit.³

We find that all production and maintenance employees at the Employer's central yard and plants 1, 2, and 3, including the employee truck drivers, the roving brick mason, the watchman,⁴ the part-time construction crew and the three part-time brick masons, but excluding the contract truck drivers, office clericals, guards, professional employees, and all supervisors as defined in the Act, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

5. The part-time construction crew and the three part-time brick masons perform construction and maintenance work at all three plants. While working for the Employer they are placed on the payroll and receive all of the benefits of the regular employees. Although they work for others when not employed by the Employer, they are called by the Employer whenever it has construction work to be performed. During the 18 months preceding the hearing the construction crew had worked principally for the Employer and anticipated at least 4 or 5 months' work in the immediate future. During the year 1950 the brick masons spent more than 50 percent of their time in working for the Employer and expected several months' work in the immediate future. The Petitioner requests that both groups be declared eligible to vote in the election. The Employer agrees as to the eligibility of the construction crew and takes no position with regard to the brick masons. Because it appears that these two groups have a reasonable expectation of further employment with the Employer, we find that they have a sufficient interest in the wages, hours, and working conditions at the Employer's operations to entitle them to a voice in the selection of a bargaining representative. Accordingly, we find them eligible to vote in the election.⁵

[Text of Direction of Election omitted from publication in this volume.]

² Cf. *Merry Brothers Brick and Tile Co.*, 64 NLRB 1548.

³ Cf. *United States Hoffman Machinery Corporation*, 91 NLRB No. 56; *Geneva Forge, Inc.*, 90 NLRB No. 212.

⁴ The watchman spends more than 50 percent of his time in caring for the boilers, and therefore, in agreement with the parties, we shall include him in the unit. See *Lake Superior District Power Company*, 87 NLRB 8.

⁵ Cf. *The Pure Oil Company*, 50 NLRB 890.