

In the Matter of THE HANSET COMPANY and INTERNATIONAL
WOODWORKERS OF AMERICA, LOCAL UNION 5-238, CIO

Case No. 19-R-1689.—Decided April 9, 1946

Messrs. Seward Sparks and Eugene Hanset, and Mrs. Irma Hanset,
of Tillamook, Oreg., for the Company.

Messrs. A. F. Hartung and Harvey R. Nelson, of Portland, Oreg.,
for the CIO.

Mr. Doyle Pearson, of Portland, Oreg., and Mr. L. G. Carroll, of
Tillamook, Oreg., for the AFL.

Miss Helen Hart, 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 5-238, CIO, herein called the CIO, alleging that a question affecting commerce had arisen concerning the representation of employees of The Hanset Company, Tillamook, 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 Tillamook, Oregon, on February 12, 1946. At the commencement of the hearing, the Trial Examiner granted a motion to intervene, made by Lumber and Sawmill Workers, Local Union 2609, chartered by United Brotherhood of Carpenters and Joiners of America, AFL, herein called the AFL. The Company, the CIO, and the AFL 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

The Hanset Company, a partnership consisting of Irma D. Hanset, and Eugene Hanset, is licensed to do business in the State of Oregon, 67 N. L. R. B., No. 16.

and maintains its principal office and place of business in Tillamook, Oregon. The Company operates a sawmill at Tillamook, Oregon. The Company began operations there in June 1945. The monthly value of timber used at the mill is approximately \$5,000. The Company's monthly sales of finished products total approximately \$10,000, of which about 50 percent 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 ORGANIZATIONS INVOLVED

International Woodworkers of America, Local Union 5-238, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

Lumber and Sawmill Workers Local Union 2609, chartered by United Brotherhood of Carpenters and Joiners of America, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

During the early part of December 1945, a representative of the CIO orally notified the Company that it claimed to represent a majority of the Company's employees and requested recognition as their bargaining agent. The Company refused to grant such recognition until the CIO was certified by the Board in an appropriate unit.

The Company purchased the sawmill and began operations in June 1945. On August 10, 1945, the Company and the AFL executed a written contract¹ covering all employees of the Company whom the CIO now seeks to represent, with the exception of the sticker department which was not installed at that time. The contract contained the following termination provision:

When either party to this Agreement desires to modify or terminate this Agreement or any clause in this Agreement, they shall give at least thirty (30) days written notice to such action, and also state what clause or modification are to come under negotiations.

If neither party to this Agreement desires any adjustment or modification of this Agreement by the termination date, then it shall be agreed by both parties that this Agreement is in effect for another year after this termination date, August 10, 1945.

¹ At the hearing the Company claimed that its superintendent, who signed the 1945 contract for the Company, was not authorized to enter into such agreements. However, on October 28, 1945, the Company negotiated a wage agreement with the AFL; its letter of December 1945, referred to, *supra*, recognizes the 1945 contract with the AFL; therefore, apparently the Company subsequently adopted this contract.

On December 15, 1945, the Company, in a registered letter notified the AFL that it wished to terminate the contract "on the expiration of this thirty-day notice, as allowed in Article 9 of said contract."

The AFL contends that the August 1945 contract is a bar to the instant proceedings. Specifically, it argues that the clause, as set forth above, was originally written and is to be interpreted to provide for modification or termination, at any time upon 30 days' notice, of "any clause in this agreement" and not for modification or termination of the *entire* agreement prior to the end of its initial term of 1 year. The Company and the CIO argue that the 1945 contract does not bar a current determination of representatives.

It is patent from the termination provision of the 1945 agreement that it was a contract terminable at will on 30 days' written notice. In view of that fact,² and in view of the action of the Company pursuant to the terms of that provision, we are of the opinion that there is no merit in the AFL's position. Accordingly, we find that the 1945 contract does not preclude a present determination of representatives.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the CIO represents a substantial number of employees in the unit found appropriate.³

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 CIO contends that all production and maintenance employees of the Company's Tillamook operation, including the relief man or sticker foreman, but excluding all office employees, the filer foreman, and all other supervisory employees, constitute an appropriate unit. The Company and the AFL seek to exclude the sticker foreman, but otherwise agree with the CIO's position.

The record indicates that the sticker foreman supervises the work of four to five employees. He has the authority effectively to recommend the hiring, discharging, and disciplining of employees in his department. It is apparent that he is vested with supervisory authority within the meaning of our customary definition. Hence, we shall exclude him from the unit.

We find that all production and maintenance employees at the Company's Tillamook, Oregon, plant, excluding all office employees, the

² See *Matter of Ionia Desk Company*, 59 N. L. R. B. 1522.

³ The Field Examiner reported that the CIO submitted 20 application for membership cards; that there are 20 employees in the alleged appropriate unit; that all the cards were dated December 11, 1945; and that the AFL relied on its contractual relationship with the Company to substantiate its claim of interest.

filer foreman, the sticker foreman, and all other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute an appropriate unit 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 The Hanset Company, Tillamook, Oregon, 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 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 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 International Woodworkers of America, Local Union 5-238, CIO, or by Lumber and Sawmill Workers Local Union 2609, chartered by United Brotherhood of Carpenters and Joiners of America, AFL, for the purposes of collective bargaining, or by neither.