

In the Matter of WESTON GLASS COMPANY, INC. *and* AMERICAN FLINT  
GLASS WORKERS' UNION OF NORTH AMERICA, AFL

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In the Matter of LUDWIK GLASS COMPANY, INC. *and* AMERICAN FLINT  
GLASS WORKERS' UNION OF NORTH AMERICA, AFL

*Cases Nos. 6-R-1303, 6-R-1304, and 6-R-1305, respectively.—Decided  
May 15, 1946*

*Mr. Herbert M. Blair*, of Weston, W. Va., for Weston and Ludwik.  
*Mr. John R. Morris*, of Clarksburg, W. Va., and *Mr. C. R. Leidy*,  
of Weston, W. Va., for the Union.

*Mr. Jerome J. Dick*, of counsel to the Board.

## DECISION

### DIRECTION OF ELECTIONS

AND

### ORDER

#### STATEMENT OF THE CASE

Upon petitions duly filed by American Flint Glass Workers' Union of North America, AFL, herein called the Union, alleging that questions affecting commerce had arisen concerning the representation of employees of Weston Glass Company, Inc., Weston, West Virginia, herein called Weston, and Ludwik Glass Company, Inc., Glenville, West Virginia, herein called Ludwik, the National Labor Relations Board provided for an appropriate consolidated hearing upon due notice before W. G. Stuart Sherman, Trial Examiner. The hearing was held at Weston, West Virginia, on March 13, 1946. Weston, Ludwik, 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 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 WESTON AND LUDWIK

Weston Glass Company, Inc., is a West Virginia corporation engaged at Weston, West Virginia, in the manufacture, sale, and distribution of miscellaneous glass products, such as tumblers, stemware, pitchers, and novelty items. During the period from December 1, 1944, to December 1, 1945, Weston purchased raw materials exceeding \$77,000 in value, all of which was shipped from points outside the State of West Virginia. During the same period, Weston manufactured at its plant finished glassware exceeding \$500,000 in value, approximately 90 percent of which was shipped to points outside the State of West Virginia.

Ludwik Glass Company, Inc., is a West Virginia corporation engaged at Glenville, West Virginia, in the manufacture of miscellaneous glass products, such as tumblers, stemware, pitchers, and novelty items. During the period from December 1, 1944, to December 1, 1945, Ludwik purchased raw materials exceeding \$45,000 in value, virtually all of which was shipped from points outside the State of West Virginia. During the same period Ludwik manufactured finished glassware exceeding \$490,000 in value, of which approximately 99 percent was shipped to points outside the State of West Virginia.

Both Weston and Ludwik admit that they are engaged in commerce within the meaning of the National Labor Relations Act.

#### II. THE ORGANIZATION INVOLVED

American Flint Glass Workers' Union of North America is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of Weston and Ludwik.

#### III. THE QUESTIONS CONCERNING REPRESENTATION

Weston and Ludwik have refused to grant recognition to the Union as the exclusive bargaining representative of certain of their employees until the Union has been certified by the Board in appropriate units.

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 of Weston's skilled glassworkers hereinafter found

appropriate (Case No. 6-R-1303), and in the unit of Ludwik's skilled glassworkers hereinafter found appropriate (Case No. 6-R-1305).<sup>1</sup>

We find in Cases Nos. 6-R-1303 and 6-R-1305 that questions affecting commerce have arisen concerning representation of employees of Weston and Ludwik, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

However, with respect to the unit of Weston's miscellaneous workers alleged by the Union to be appropriate in Case No. 6-R-1304, the Board agent's statement shows that the Union has but a showing of approximately 23 percent among such employees.<sup>2</sup> Consequently, we believe that in regard to Case No. 6-R-1304, an election is not warranted and we shall dismiss the Union's petition.<sup>3</sup>

#### IV. THE APPROPRIATE UNITS

In Case No. 6-R-1303 the Union seeks a unit composed of Weston's skilled glassworkers, including gatherers, blowers, finishers, handlers, foot setters, blockers, and pressers, but excluding all miscellaneous employees, the watchman, assistant shipping clerk, head shipping clerk, clericals, and all supervisory employees. Weston contends that only a plant-wide unit is appropriate, including its miscellaneous workers. However, if the Board should establish the unit urged by the Union, Weston maintains that the watchman, assistant shipping clerks, and head shipping clerk should be included therein. In Case No. 6-R-1305, the Union seeks a unit of Ludwik's skilled glassworkers similar to that sought in Case No. 6-R-1303 and would exclude the watchman. Like Weston, Ludwik contends that only a plant-wide unit is appropriate; however, if the Board should establish the unit urged by the Union, Ludwik asserts that its watchman should be included.

Both Weston and Ludwik are engaged in the same segment of the glass industry, and they are organized on a substantially similar basis from an operational and administrative point of view. The skilled glassworkers of Ludwik and Weston are employed in the blowing

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<sup>1</sup> The Field Examiner reported that in Case No. 6-R-1303 the Union submitted 36 cards, of which 21 cards are undated, the remainder being dated from August 1945 to October 1945; that 28 cards bore the names of employees listed on Weston's pay roll of January 1, 1946. There are approximately 53 employees in the appropriate unit of Weston's skilled glassworkers.

He further reported that in Case No. 6-R-1305 the Union submitted 34 cards of which 29 cards are undated, the remainder being dated from 1943 to 1945; that 31 cards bore the names of employees listed on Ludwik's pay roll of January 7, 1946. There are approximately 41 employees in the appropriate unit of Ludwik's skilled glassworkers.

<sup>2</sup> The Field Examiner reported that in Case No. 6-R-1304 the Union submitted 71 cards of which 22 cards are undated, the remainder being dated from August 1945 to October 1945; that 42 cards bore the names of employees listed on Weston's pay roll of January 1, 1946. There are approximately 182 employees in the alleged appropriate unit of Weston's miscellaneous unskilled workers.

<sup>3</sup> See *Matter of Scullin Steel Company*, 55 N. L. R. B. 1461.

department. They work as part of crews of six or seven, including three or four unskilled employees of the blowing department. Skilled glassworkers are responsible for the delicate task of blowing and shaping glassware. On the other hand, the unskilled workers in the blowing department merely carry the glass from one operation to another in the blowing, shaping and finishing process, and generally assist the skilled workers in various other ways. Employees in other departments are engaged in work unrelated to the shaping of glass. Moreover, the skilled glassworkers are paid on a piece-rate basis and earn an average of \$150 a week,<sup>4</sup> while the unskilled employees of the blowing department and the workers of all other departments receive substantially less.

There has been no bargaining history among the employees of Weston and Ludwik.<sup>5</sup> Nevertheless there has been a history of collective bargaining in the industry in which Weston and Ludwik are engaged, predicated upon separate units of skilled and miscellaneous employees. Thus, a great majority of the manufacturers (excluding both Weston and Ludwik) in this particular phase of the industry are members of the National Association of Manufacturers of Pressed and Blown Glassware, which has annual bargaining conferences with the Union. At such conferences there are separate divisional meetings for the skilled employees and the miscellaneous employees, respectively. Since at least 1937, these conferences and divisional meetings have taken place. Most significantly, separate contracts have been negotiated for each group.

Considering the history of bargaining in the industry and the difference in training, aptitudes, and wages of the skilled and miscellaneous workers, we are persuaded that two separate units, confined to the skilled glassworkers of Weston and Ludwik, are appropriate.<sup>6</sup>

It is clear that the watchman, assistant shipping clerks, and head shipping clerk should be excluded from the unit of Weston's skilled glassworkers because of dissimilarity of interests, and the watchman should be excluded from the unit of Ludwik's skilled glassworkers for the same reasons.

We find that the following groups of employees constitute two separate units appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the Act:

(1) All skilled glassworkers employed by Weston, including gatherers, blowers, finishers, handlers, foot setters, blockers, and

<sup>4</sup> The gatherers received 80 percent of the piece-rate received by the blowers and finishers.

<sup>5</sup> On November 23, 1943, the Union petitioned for a production and maintenance unit at the Ludwik plant and lost a consent election premised on this unit. Although Ludwik contends that the prior election precludes the holding of another election at this time, we find no merit in this contention, as that election was held more than 2 years ago.

<sup>6</sup> Cf. *Matter of Cameron Glass and Manufacturing Company*, 25 N. L. R. B. 580

pressers, but excluding all miscellaneous employees, the watchman, assistant shipping clerks and head shipping clerk, the clericals 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; and

(2) All skilled glassworkers employed by Ludwik including gatherers, blowers, finishers, handlers, foot setters, blockers, and pressers, but excluding all miscellaneous employees, the watchman, clericals, 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.

#### V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the questions concerning representation which have arisen be resolved by two separate elections by secret ballot among employees in the appropriate units who were employed during the pay-roll period immediately preceding the date of the Direction of Elections herein, subject to the limitations and additions set forth in the Direction.

#### DIRECTION OF ELECTIONS

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 Weston Glass Company, Inc., Weston, West Virginia, and Ludwik Glass Company, Inc., Glenville, West Virginia, two separate elections 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 Sixth 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 units 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 American Flint Glass Workers' Union, AFL, for the purposes of collective bargaining.

**ORDER**

IT IS HEREBY ORDERED that the petition for investigation and certification of representatives of employees of Weston Glass Company, Inc., Weston, West Virginia, filed in Case No. 6-R-1304 by American Flint Glass Workers' Union of North America, AFL, be, and it hereby is, dismissed.