

In the Matter of BYRON JACKSON COMPANY and INTERNATIONAL ASSOCIATION OF MACHINISTS, FOR AND IN BEHALF OF LODGE NO 87

Case No. 20-R-1635.—Decided June 19, 1946

Latham & Watkins, by Messrs. Paul R. Watkins and Keene Watkins, of Los Angeles, Calif., for the Company.

Mr. A. C. McGraw, of Oakland, Calif., for the Union.

Mr. Hyman H. Ostrin, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by International Association of Machinists, for and in behalf of Lodge No. 87, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Byron Jackson Company, Fresno, California, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before David Aaron, Trial Examiner. The hearing was held at Los Angeles, California, on April 1, 1946. 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 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

Byron Jackson Company is a Delaware corporation engaged in the manufacture, sale, distribution, installation, and servicing of oil well

tools, centrifugal pumps, and turbine pumps. It owns and operates plants in California, Pennsylvania, and Texas. The Fresno, California, plant, which is the only one involved in this proceeding, is engaged in the assembly, service, and installation of agricultural pumps. From July 1 to December 31, 1945, the Company received in excess of \$150,000 worth of materials for use in its operations, about 11 percent of which originated outside the State of California. During the same period the Company's sales exceeded \$200,000 in value and were all made within the State.

We find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.¹

II. THE ORGANIZATION INVOLVED

International Association of Machinists, for and in behalf of Lodge No. 87, unaffiliated, 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 employees in the alleged appropriate unit 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.²

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

We find, in accordance with the agreement of the parties, that all production, maintenance, and service employees, including machinists, assembly men, maintenance men, installers, installer helpers, and machine shop helpers, but excluding office and clerical employees, salesmen, the shop foreman, the branch manager, 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,

¹ The parties stipulated at the hearing that the business of the Company, insofar as it relates to commerce, is now substantially the same as it was at the time of the Board's ruling thereon in Case No. C-377, decided March 15, 1939, *Matter of Byron Jackson Company*, 11 N. L. R. B. 1142. See also *Matter of Byron Jackson Company*, 66 N. L. R. B. 1312.

² The Field Examiner reported that the Union submitted 9 authorization cards; that 7 of these cards bore the names of persons appearing on the Company's pay roll of February 15, 1946; and that there are approximately 13 employees in the appropriate unit.

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 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 Byron Jackson Company, Fresno, California, 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 Twentieth 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 or not they desire to be represented by International Association of Machinists, for and in behalf of Lodge No. 87, for the purposes of collective bargaining.

CHAIRMAN HERZOG took no part in the consideration of the above Decision and Direction of Election.