

In the Matter of ALLIED MILLS, INC., EMPLOYER and AMERICAN FEDERATION OF GRAIN PROCESSORS, A. F. L., PETITIONER

Case No. 17-RC-22.—Decided March 26, 1948

Messrs. Homer W. Keller, of Peoria, Ill., and *W. A. Stohrer*, of Omaha, Nebr., for the Employer.

Messrs. J. A. Leveridge, of Kansas City, Mo., and *Harold Tevis*, of Omaha, Nebr., for the Petitioner.

Mr. Thomas L. Short, of Omaha, Nebr., for the Intervenor.

DECISION
AND
DIRECTION OF ELECTION

Upon a petition duly filed, hearing in this case was held at Omaha, Nebraska, on January 9, 1948, before William J. Scott, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Upon the entire record in the case, the National Labor Relations Board¹ makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE EMPLOYER

Allied Mills, Inc., an Indiana corporation, manufactures livestock and poultry feed, and processes soy beans at various plants in the States of Illinois, Nebraska, Indiana, New York, Tennessee and Virginia. We are here concerned only with the Employer's Omaha, Nebraska, plant. In 1947, the Employer purchased for use at this plant, raw materials approximating \$1,000,000 in value, of which about 75 percent represented shipments from points outside the State of Nebraska. During the same period, the Employer manufactured finished products approximating \$1,000,000 in value, of which about 75 percent represented shipments to points outside the State.

¹ 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-man panel consisting of the undersigned Board Members [Houston, Murdock, and Gray].

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

II. THE ORGANIZATIONS INVOLVED

The Petitioner is a labor organization affiliated with the American Federation of Labor, claiming to represent employees of the Employer.

International Union of Operating Engineers, herein called the Intervenor, is a labor organization affiliated with the American Federation of Labor, claiming to represent employees of the Employer.

III. THE QUESTION CONCERNING REPRESENTATION

The Employer has refused to recognize the Petitioner and the Intervenor respectively, as the exclusive bargaining representative of employees in the units claimed by each to be appropriate in the absence of Board certification.

We find that 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.

IV. THE APPROPRIATE UNITS

The Petitioner desires a unit of all production and maintenance employees, excluding engineers,² office and clerical employees, laboratory employees, buyers, salesmen, and supervisors. The Intervenor seeks a unit comprised of the above-mentioned engineers. The Employer, while agreeing that the engineers constitute a separate and distinct group from the production and maintenance employees, seeks the establishment of a single plant-wide unit inclusive of engineers.

There is no history of collective bargaining at this plant.

The engineers work in the boiler room and throughout the plant, generating and maintaining steam and steam lines. They also repair any breakdown of machinery involving steam and return water lines. The engineers are qualified in their occupation by license and receive a higher rate of pay than the production and maintenance employees. We have repeatedly held that licensed engineers performing duties of the kind described above are members of a traditional craft and may constitute a separate unit appropriate for the purposes of collective bargaining.³ In accordance with these decisions and on the entire

² Although the unit described in the petition embraced engineers, the Petitioner, upon the intervention of Intervenor in behalf of the engineers, amended its unit request to exclude engineers.

³ *Matter of Arrow Linen Service, Inc.*, 73 N. L. R. B. 868; *Matter of Philadelphia Quartz Company*, 57 N. L. R. B. 737, and cases cited therein.

record, we shall establish a unit of engineers at the plant, apart from the unit of production and maintenance employees.

We find that the following units at the Omaha, Nebraska, plant of the Employer, excluding all office and clerical employees, laboratory employees, buyers, salesmen, and supervisors constitute units appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act:

- (a) All production and maintenance employees.
- (b) All engineers.⁴

DIRECTION OF ELECTION

As part of the investigation to ascertain representatives for the purposes of collective bargaining with Allied Mills, Inc., Omaha, Nebraska, 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 Seventeenth Region, and subject to Sections 203.61 and 203.62, of National Labor Relations Board Rules and Regulations—Series 5, among the 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, 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 elections, and also excluding employees on strike who are not entitled to reinstatement, to determine (a) whether or not the employees in the production and maintenance unit desire to be represented by American Federation of Grain Processors, A. F. L., for the purposes of collective bargaining, and (b) whether or not the employees in the unit of engineers desire to be represented by International Union of Operating Engineers, A. F. L., for the purposes of collective bargaining.

⁴ Although the parties agreed that the chief engineer was a non-supervisory employee, the status of this employee appears questionable from the record. For this reason, we shall make no determination with respect to inclusion of the chief engineer in the unit of engineers at this time. If the chief engineer possesses supervisory powers within the meaning of Section 2 (11) of the Act, he is to be excluded from the unit; otherwise he is to be included. Cf. *Matter of Joseph Bancroft & Sons Company*, 60 N. L. R. B. 1053.