

In the Matter of PLASTOID CORPORATION, EMPLOYER *and* WALDRON C. TOTTEN, PETITIONER *and* DISTRICT 50, UNITED MINE WORKERS OF AMERICA, UNION

*Case No. 4-RD-4.—Decided April 6, 1948*

*Mr. Oscar Stabiner*, of New York City, for the Employer.

*Mr. Waldron C. Totten*, of Hamburg, N. J., as the Petitioner appearing in person.

*Mr. Andrew D. Danko*, of Newark, N. J., for the Union.

DECISION

AND

DIRECTION OF ELECTION

Upon a petition for decertification duly filed, hearing in this case was held at Newark, New Jersey, on January 9, 1948, before John H. Garver, 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-man panel consisting of the understanding Board Members.\*

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

FINDINGS OF FACT

I. THE BUSINESS OF THE EMPLOYER

Plastoid Corporation, a New York corporation having its principal place of business in Hamburg, New Jersey, is engaged in the manufacture of thermoplastic insulated electric wire. Annually it uses raw materials valued in excess of \$300,000, of which approximately 50 percent is received at Hamburg from points outside the State of New Jersey. Annually it manufactures finished products valued in

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\*Chairman Herzog and Members Murdock and Gray

excess of \$500,000, of which approximately 50 percent is shipped from Hamburg, New Jersey, to points outside the State.

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

## II. THE PARTIES INVOLVED

The Petitioner, an employee of the Employer, asserts that the Union is no longer the representative of the Employer's employees as defined in Section 9 (a) of the Act.

District 50, United Mine Workers of America, a labor organization, herein called the Union, is the recognized representative of employees of the Employer.

## III. THE QUESTION CONCERNING REPRESENTATION

The Union became the exclusive bargaining representative of the Employer's employees following a consent election held on July 31, 1945. On October 25, 1946, the Union and the Employer entered into a collective bargaining contract extending to November 1, 1947. By its terms it was to remain in effect from year to year thereafter, unless either party gave notice, not less than 30 days or more than 60 days before any annual expiration date, of intention to modify or terminate the contract. By timely letter the Union advised the Employer that it wished to modify the contract and that, pursuant to Section 8 (d) of the Act, all contractual relations between the parties were to be considered terminated if no new agreement was reached before November 1, 1947. On September 15, 1947, a group of employees advised the Employer in writing that they no longer wished to be represented by the Union, and on October 10, 1947, the instant petition, requesting decertification of the Union, was filed.

The Union contends that its contract is a bar to the proceedings herein. We find no merit in this contention. As the notice from the Union to the Employer forestalled automatic renewal of the contract, we find, in accordance with well-established principles, that the contract is not a bar to these proceedings.<sup>1</sup>

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.

<sup>1</sup>*Matter of Snow & Nealley Company*, 76 N. L. R. B. 390; *Matter of Stewartstown Furniture Co.*, 75 N. L. R. B. 344. See also Report of Senate Labor Committee, No. 105, 80th Cong., 1st Sess., pp. 10, 25.

## IV. THE APPROPRIATE UNIT

None of the parties questions the appropriateness of the unit in which the Union has been representing the Employer's employees and which is covered by the 1946 contract between the Union and the Employer.

We find that all hourly paid production and maintenance employees of the Employer employed at Hamburg, New Jersey, including coilers, shippers, extruding machine operators, wrappers, re-reelers, inspectors, machinists, stock clerks, janitors, truck drivers, and packers, but excluding clerical employees, watchmen, 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.<sup>2</sup>

DIRECTION OF ELECTION<sup>3</sup>

As part of the investigation to ascertain representatives for the purposes of collective bargaining with Plastoid Corporation, Hamburg, New Jersey, 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 Fourth 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 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, 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, and also excluding employees on strike who are not entitled to reinstatement, to determine whether or not they desire to be represented by District 50, United Mine Workers of America, for the purposes of collective bargaining.

<sup>2</sup> This is essentially the unit provided for in the collective bargaining contract between the Employer and the Union. It has been slightly revised, particularly with respect to watchmen, to conform with the provisions of the amended Act. See *Matter of C V Hill & Company, Inc.*, 76 N. L. R. B. 158.

<sup>3</sup> In accordance with the Board's announced policy, we shall place the Union's name on the ballot in the election directed hereinafter, notwithstanding the fact that it has failed to comply with the registration and filing requirements of Section 9 (f), (g), and (h) of the amended Act. The Union will be certified if it wins the election provided that at that time it is in compliance with Section 9 (i) and (h) of the Act. Absent such compliance, the Board will only certify the arithmetical results of the election. See *Matter of Harris Poultry & Machine Company*, 76 N. L. R. B. 118.