

AMERICAN FRUIT GROWERS, INC. and UNITED FRESH FRUIT & VEGETABLE WORKERS LOCAL INDUSTRIAL UNION NO. 78, CIO, PETITIONER.
Cases Nos. 20-RC-1954 and 20-RC-1955. December 2, 1952

Decision and Direction of Elections

Upon separate petitions duly filed under Section 9 (c) of the National Labor Relations Act, a hearing in the above consolidated cases¹ was held before M. C. Dempster, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.²

Pursuant to the provisions of Section 3 (b) of the Act, the Board has delegated its powers in connection with these cases to a three-member panel [Members Houston, Murdock, and Styles].

Upon the entire record in these cases, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act.
2. The labor organization involved claims to represent certain employees of the Employer.
3. 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.
4. The Petitioner seeks to represent in separate units the employees in the Employer's fruit packing sheds at Newcastle and Auburn, California. The Newcastle and Auburn sheds are located about 5 miles apart. Two additional sheds, at Loomis and Briggs, are included in the same administrative district. The Loomis shed is about 5 miles from Newcastle, while the Briggs shed is about 65 miles from Loomis. It appears from the record that the primary purpose of the district organization is to integrate the sales and shipments of the produce rather than the operation and labor relations policy of these sheds. The shed manager at the Newcastle shed serves as the district manager in charge of sales and shipments for all four sheds. Neither party contends that this district constitutes an appropriate multished

¹ On August 14, 1952, the Regional Director, pursuant to Section 102.64 (b) of the Board's Rules and Regulations, Series 6, consolidated the proceedings in Cases Nos. 20-RC-1954 and 20-RC-1955.

² The hearing officer referred to the Board the Employer's motion to dismiss on the grounds that: (1) No question of representation existed at the time of the hearing because the Employer had not been requested to recognize the Petitioner; and (2) the Petitioner did not make an adequate showing of interest among the employees in the units in question. The motion is denied because: (1) The filing of the petitions constituted a sufficient demand for recognition *Advance Pattern Company*, 80 NLRB 29; see also *General Box Company*, 82 NLRB 678; (2) the Board has repeatedly held that the adequacy of the showing of representative interest is an administrative matter and is not subject to litigation by the parties. *Kearney & Trecker Corporation*, 95 NLRB 1125. Moreover, we are administratively satisfied that the Petitioner has made a sufficient showing of interest.

unit for the purposes of collective bargaining; they agree that the employees at the Briggs shed, who are currently represented in a separate unit by the Petitioner, should, in no event, be included in the unit sought here. There is no history of collective bargaining at the remaining three sheds.

Each of the above sheds is separately supervised and operated by a shed manager. The shed manager has final authority to hire and discharge all employees working under his supervision. There is no intershed system of seniority, and the Employer has no policy of transferring employees from one shed to another. However, as many of the employees are migratory workers, some of them may shift from one shed to another in search of more favorable employment. Although the sheds are engaged in the same packing operations, it is clear from the record that they function independently. There appears to be no necessary contact between the groups of packing employees at the several sheds.

In view of the foregoing, particularly the absence of a history of collective bargaining for the Auburn and Newcastle sheds, the geographic separation and functional independence of all of the Employer's sheds, and the lack of employee interchange, we find that the single shed units sought by the Petitioner at Auburn and Newcastle are appropriate.³

In view of the fact that the Petitioner filed no petition for the Loomis shed and made no showing of interest among the employees in that shed, we shall make no formal unit finding as to those employees and shall not direct an election among them at this time.

Accordingly, we find that the following units are appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act:

(1) All production and maintenance employees employed in the Employer's packing shed at Auburn, California, including general laborers, receivers, dumpers, graders, packers, lidding machine operators, carloaders, cratemakers, tally girls, and box makers; but excluding office and professional employees, guards, the shed manager, the packing foreman, the labor contractor, and all other supervisors as defined by the Act.

(2) All production and maintenance employees employed in the Employer's packing shed at Newcastle, California; including general laborers, receivers, dumpers, graders, packers, lidding machine operators, carloaders, cratemakers, tally girls, and box makers; but excluding office and professional employees, guards, the shed mana-

³ *V. J. Elmore 5¢, 10¢ & \$100 Stores, Incorporated (Store No 60)*, 99 NLRB 1505; *Coberly-West Company*, 92 NLRB 862; *Perfection Garment Company*, 91 NLRB 1421; *Harms Hosiery Co., Inc.*, 91 NLRB 330.

ger, the packing foreman, the labor contractor, and all other supervisors as defined by the Act.

5. Because the seasonal employment peak for the Auburn and Newcastle sheds has passed, we shall not direct that elections be held at this time. Following our customary practice in seasonal industries, we shall direct that elections be held at or about the time of the employment peak of the next packing season, on a date to be determined by the Regional Director, among the employees in the appropriate units who are employed during the payroll period immediately preceding the date of issuance of the notices of election.⁴

[Text of Direction of Elections omitted from publication in this volume.]

⁴ See *Imperial Garden Growers*, 91 NLRB 1034, 1040.

KRAMBO FOOD STORES, INC. and GROCERY CLERKS UNION, LOCAL NO. 1469, RETAIL CLERKS INTERNATIONAL ASSOCIATION, AFL, PETITIONER. *Case No. 13-RC-2379. December 2, 1952*

Supplemental Decision and Certification of Representatives

On August 14, 1952, the Regional Director for the Thirteenth Region issued his report on objections, in which he recommended that the Intervenor's objections be overruled and that the Petitioner be certified as majority representative of the employees in the unit set forth in the Board's Decision and Direction of Election.¹ Thereafter, the Intervenor filed exceptions to the report on objections.²

The Board has considered the report on objections, the exceptions thereto, and the entire record in this case, and finds that the exceptions do not raise any substantial or material issues with respect to the election.³ Accordingly, the Board hereby adopts the Regional Director's findings, conclusions, and recommendations, with the following additions and modifications:

In the latter part of its tenth objection, the Intervenor asserts that an AFL representative who was also a member of the Wage Stabilization Board, Business Agent Stadelmann, threatened to block any wage increase sought by the Intervenor if it won the election.

¹ 98 NLRB 1320

² On October 29, 1952, the Employer moved for reconsideration of the Board's Decision and Direction of Election of April 29, 1952, and for other relief. No sufficient reason was shown for finding the motion to be timely. The motion is accordingly denied. See *Harcourt and Co.*, 100 NLRB 1383

³ The Intervenor and the Employer moved for a hearing. As there are no substantial questions of fact at issue, and as the positions of the parties are in our opinion adequately presented, the motions are denied