

In the Matter of FRANK KOPRIVA and UNITED MINE WORKERS OF  
AMERICA, DISTRICT NO. 5

*Case No. 6-R-1208.—Decided December 29, 1945*

*Mr. Frank Kopriva and Miss Margaret Kopriva, of Beaver Falls, Pa., for the Company.*

*Messrs. Samuel Krimsly, Frank Sabolsky, and Joe Testa, of Pittsburgh, Pa., for the Union.*

*Mr. Bernard Goldberg, of counsel to the Board.*

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Mine Workers of America, District No. 5, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Frank Kopriva, Beaver Falls, Pennsylvania, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before W. G. Stuart Sherman, Trial Examiner. The hearing was held at Pittsburgh, Pennsylvania, on August 8, 1945. 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 an 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

Frank Kopriva is an individual engaged in operating a bituminous coal mine at Beaver Falls, Pennsylvania. During 1944, the Company purchased more than \$15,000 worth of equipment and supplies for use in its mining operations, of which in excess of 25 percent was delivered to the mine from points outside the Commonwealth of Pennsylvania. During the same year, the Company produced approximately 22,000

tons of coal valued at about \$80,000. The coal so produced was sold to companies within a 6-mile radius of the mine. Approximately 65 percent of the total production was sold to the following companies, all of which are admittedly engaged in interstate commerce: Republic Steel Company, Armstrong Cork Company, William Leard Company, Beco Products Company, Correct Manufacturing Company, National Pants Company and Standard Steel Specialty Company.

The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

## II. THE ORGANIZATION INVOLVED

United Mine Workers of America, District No. 5, is a labor organization admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

About June 29, 1945, a representative of the Union orally requested Kopriva to recognize the Union as the collective bargaining representative of his employees. Kopriva refused to comply with the request.

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.<sup>1</sup>

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

The Union seeks a unit comprising all employees working in and about the Company's mine, including truck drivers and their helpers, but excluding clerks and foremen. The sole issue with respect to the composition of the unit relates to the truck drivers and their helpers, whom the Company desires to exclude.

The mine involved is small, employing about 22 miners, 2 truck drivers and 1 truck driver's helper, in addition to clerical and supervisory personnel. The principal function of the truck drivers and their helper is to load coal onto the trucks and to deliver it to the Company's customers, who are located within a 6-mile radius of the mine. Their subsidiary function is to haul away and dump the slate which comes from the mine. When the mine is operating, the truck drivers and their helper devote about 2 hours daily to this latter task. They also spend about 15 minutes a day knocking the top slate off

<sup>1</sup>The Field Examiner reported that the Union submitted 18 authorization cards; and that the names of 17 persons appearing on the cards were listed on the Company's pay roll of June 15, 1945, which contained the names of 25 employees in the appropriate unit.

the coal which is being loaded onto the trucks. Uncontradicted testimony at the hearing indicates that it is the custom in the bituminous coal mining industry for truck drivers to be included in the same unit with miners. Under all the circumstances, we shall include the truck drivers and their helper in the unit.

We find that all employees working in and about the Company's mine, including truck drivers and their helper, but excluding clerks, foremen, 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, 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 the 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 Frank Kopriva, Beaver Falls, Pennsylvania, an election by secret ballot shall be conducted as early as possible, but not later than sixty (60) 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 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 the 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 United Mine Workers of America, District No. 5, for the purposes of collective bargaining.