

In the Matter of *ARMOUR & COMPANY and UNITED PACKINGHOUSE
WORKERS OF AMERICA, C. I. O.*

Case No. 16-R-1508.—Decided February 13, 1946

Messrs. T. J. Dee and H. H. Danielson, both of Oklahoma City, Okla., for the Company.

Mr. A. J. Pittman, of Fort Worth, Tex., and *Mr. Buck Whittaker*, of Oklahoma City, Okla., for the Union.

Mr. Charles B. Slaughter, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Packinghouse Workers of America, C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Armour & Company, Oklahoma City, Oklahoma, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Glenn L. Moller, Trial Examiner. The hearing was held at Oklahoma City, Oklahoma, on October 29, 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

Armour & Company is an Illinois corporation operating plants in several States. We are here concerned with its plant at Oklahoma City, Oklahoma, where it is engaged in slaughtering and processing livestock. During 1944 the Company received 250,000,000 pounds of materials at its Oklahoma City plant, approximately 15 percent of

which was shipped to said plant from points outside the State of Oklahoma. During the same period, the Company shipped about 195,000,000 pounds of products from its Oklahoma City plant, 55 percent of which was shipped to points outside the State of Oklahoma. The Company's business at the aforesaid plant for the year 1945 has been substantially the same as for the year 1944.

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

II. THE ORGANIZATIONS INVOLVED

United Packinghouse Workers of America, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On or about September 22, 1945; the Union wrote to the Company requesting recognition as exclusive bargaining representative of the firemen at the Company's Oklahoma City plant. On or about October 3, 1945, the Company replied, refusing to grant such recognition in the absence of Board certification.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the voting group hereinafter found appropriate.¹

We find that a question affecting commercé 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 DETERMINATION OF REPRESENTATIVES

The Union seeks an election among all employees in the Company's fire department at its Oklahoma City plant, and requests that if a majority of those voting in the election express a desire to be represented by the Union, they be incorporated into the previously established production and maintenance unit, for which the Union is presently the bargaining agent. The Company objects to the incorporation of the firemen into the production and maintenance unit on the basis of the Board's previous Decision and Direction of Election wherein firemen were not included among the production and maintenance employees.²

¹ A Field Examiner reported that the Union submitted four application cards and that there are approximately four employees in the voting group. The cards were dated in September 1945.

² 42 N. L. R. B. 169. It is noted that, in excluding firemen from the production and maintenance unit, the Board simply followed the wording of the Union's petition. The inclusion, or exclusion, of firemen was not an issue.

The Company employs four firemen. They are under the supervision of the chief of police, who also acts as fire chief. There is one fireman on each of the three shifts, the fourth fireman acting as relief man. They are responsible for the maintenance and repair of the automatic sprinkler system and other items of fire fighting equipment. On occasion they flush out the underground sewers when they become clogged, and in the event of a fire they direct firemen to the nearest fire hydrant or water outlet. Their work is not monitorial in character. Like production and maintenance employees they are hourly paid. We find nothing in the duties, functions, and interests of firemen indicating either the necessity or desirability of setting them apart in a unit separate from the production and maintenance employees.³ The evidence discloses in fact a close functional relationship between firemen and maintenance employees. We are of the opinion that these firemen may function as a part of the larger unit previously deemed appropriate.

We shall direct that the question concerning representation which has arisen be resolved by an election by secret ballot among the firemen, employed at the Company's Oklahoma City plant, excluding the chief of police-fire chief and any other supervisory employees with the authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, 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. In the event these employees select the Union as their collective bargaining representative that organization may bargain for them together with the production and maintenance unit which it currently represents.

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 Armour & Company, Oklahoma City, Oklahoma, 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 Director³ for the Sixteenth Region, acting in this matter as agent for the National Labor Relations Board, and subject

³ In the *Matter of Wilson & Co.*, 61 N. L. R. B. 617, firemen were found to constitute a "separate appropriate unit." However, the finding in the instant case is not inconsistent therewith because in that case firemen had, *inter alia*, monitorial duties.

to Article III, Sections 10 and 11, of said Rules and Regulations, among all firemen at the Company's Oklahoma City plant, excluding the chief of police-fire chief, 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, 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 United Packinghouse Workers of America, C. I. O., for the purposes of collective bargaining.