

BETHLEHEM STEEL COMPANY (SHIPBUILDING DIVISION) BETHLEHEM-SPARROWS POINT SHIPYARD, INC.¹ and CRESTON R. BEARRY, PETITIONER and INDUSTRIAL UNION OF MARINE AND SHIPBUILDING WORKERS OF AMERICA, CIO, LOCAL 33. *Case No. 5-RD-114. January 11, 1955*

Decision and Order

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Benjamin E. Cook, 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 this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the National Labor Relations Act.

2. The Petitioner asserts that the Union is no longer the representative of certain employees of the Employer, as defined in Section 9 (a) of the Act. The Union is a labor organization recognized by the Employer as the exclusive bargaining representative for the employees designated in the petition.

3. No question affecting commerce exists concerning the representation of employees of the Employer within the meaning of Section 9 (c) (1) and Sections 2 (6) and (7) of the Act, for the following reasons:

In 1943, the Board issued a Decision and Direction of Election (49 NLRB 762), in which it found a unit of shipyard counters at the Employer's yard, including group leaders, to be appropriate. The group leaders were included inasmuch as no issue was raised as to their supervisory status. Having won the election, the Union was certified as the representative of the employees in the aforesaid unit, since which time it has bargained for them. The most recent contract covering these employees, among others, was executed on September 20, 1954.

The Petitioner herein is a group leader who seeks to decertify the Union as the representative of employees in the counter unit. The Union moves to dismiss the petition on the ground, among others, that the Petitioner is a supervisor as defined in the Act and is, therefore, ineligible to file the instant petition.

The record discloses, and it is undisputed by the parties, that the Petitioner, as well as all the other group leaders, possesses authority effectively to recommend counters for discipline, transfer, discharge, or pay increases. Under these circumstances, we find that the Petitioner and the other group leaders of counters are supervisors within

¹In view of the fact that none of the parties objects to the Employer's name as indicated in the title of this proceeding, we see no reason to amend the title, as the hearing officer suggests

the meaning of Section 2 (11) of the Act. Because of his supervisory status, we further find that under settled law the Petitioner is disqualified from filing the decertification petition.² Accordingly, we grant the Union's motion and dismiss the petition herein.³

[The Board dismissed the petition.]

² *Clyde J. Merris*, 77 NLRB 1375; *Doak Aircraft Co., Inc.*, 107 NLRB 924. As group leaders are supervisors within the meaning of the Act, we find that they are no longer appropriately a part of the counters' unit.

³ In view of the disposition of this case, the Board does not rule upon the Union's other contentions

F. M. REEVES AND SONS, INC.¹ and CHAUFFEURS, TEAMSTERS AND HELPERS, LOCAL UNION 492, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA, AFL, PETITIONER. *Case No. 33-RC-487. January 11, 1955*

Decision and Order

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Byron E. Guse, 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 this case, the Board finds that it will not effectuate the policies of the Act to assert jurisdiction for the reasons stated below:

The Employer is a Texas corporation, with its principal office located in Pecos, Texas. It produces and mines sand, gravel, and concrete aggregate, and sells ready-mixed concrete. The only plant involved in this proceeding is the Employer's operation located at Roswell, New Mexico. During the period of a year ending before the hearing, only the Employer's Pecos, Texas, operation made sales outside the State of its location. These out-of-State sales amounted to approximately \$15,700. In the same period, the Roswell, New Mexico, plant purchased goods shipped from outside the State of New Mexico in the sum of approximately \$135,300. Freight charges on these goods amounted to about \$90,000. All of the Roswell plant's annual sales of about \$553,400 were to customers within the State of New Mexico; of this total, about \$141,800 represented sales to contractors building and repairing streets and parts of highways in and near Roswell, and about \$83,500 was in sales to contractors for construction and repair work at the Walker Air Force Base.

The Employer contends that it is not engaged in commerce within the meaning of the Act. Practically all of its sales are to within-the-

¹ The Employer's name appears as amended at the hearing
111 NLRB No. 25.