

in the shipping and receiving department located in the plant area. There are also 20 to 25 shipping and receiving checkers who oversee the loading and checking of the finished parts and products in the various plant departments. They have no supervisory authority. There are 6 to 10 scheduling clerks who spend 50 percent of their time on the production floor and 50 percent of their time in the plant's scheduling office located in the plant. They keep production and parts records and expedite and coordinate the work among the various departments. The shop office clerks work in the various production offices located throughout the plant. They maintain records, files, and perform general clerical duties for the production department foreman and superintendent, who are their direct supervisors. The employees in all of these categories are hourly paid and receive the same benefits as the production and maintenance employees. In view of these facts, we find that these employees are plant clericals and in accord with established Board policy, shall include them in the unit.

Inspectors: At the hearing the Employer took no position as to the inspectors whom the Petitioner would include in the unit. In its brief, the Employer agreed to the inclusion of the inspectors in the unit. As it appears from the record that these employees have interests closely allied to those of the production and maintenance employees, we shall, in accordance with the agreement of the parties, include them in the unit.

Accordingly, we find that the following employees at the Employer's Lawrenceburg, Tennessee, manufacturing plant, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act:

All production and maintenance employees, including timekeepers, cafeteria employees, the dispensary clerk, inspectors, leadmen, the matron, shipping and receiving clerks, shipping and receiving checkers, scheduling clerks, and shop office clerks; but excluding office clerical employees, the first-aid attendant, the draftsman trainee, professional employees, guards, and supervisors as defined in the Act.

[Text of Direction of Election omitted from publication.]

Hygienic Sanitation Company, Petitioner and Warehouse Employees Union Local 169, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL-CIO. Case No. 4-RM-234. August 15, 1957

DECISION AND ORDER

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Seymour X. Alsher, hearing

officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.¹

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-member panel [Chairman Leedom and Members Murdock and Bean].

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in the extermination and sanitation business, approximately 50 percent of which is nonretail in nature. Its main office, located in Philadelphia, Pennsylvania, is involved in this proceeding. In 1955 its direct outflow of services and sales from its Philadelphia, Pennsylvania, office to points without the State of Pennsylvania exceeded \$50,000. In 1956, the Employer's direct outflow from the Philadelphia, Pennsylvania, office was approximately \$45,000. The record shows, however, that during that year the Employer's interstate activities were substantially curtailed by a strike called by the Union in August 1956 which lasted throughout the remaining part of 1956. Absent the strike it was estimated that the direct outflow from the Philadelphia, Pennsylvania, office would have exceeded \$50,000. On these facts we find that the Employer is engaged in interstate commerce and that it will effectuate the purposes of the Act to assert jurisdiction in this proceeding.²

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

In 1954 the Union was certified as the exclusive bargaining representative of the employees in a unit consisting of all servicemen at the Employer's Philadelphia, Pennsylvania, office, which is the unit described in the petition filed herein. The last collective-bargaining agreement between the Union and the Employer expired in the summer of 1956. The parties were unable to agree on the terms of a new contract and, because of this disagreement, the Union, on August 21, 1956, called a strike and commenced picketing the Employer's Philadelphia, Pennsylvania, office, which picketing was still in progress as of the date of the hearing in this case.

¹ Between the first and second days of hearing in the case a *subpoena duces tecum* was issued to obtain additional information concerning the Employer's activities in interstate commerce. During the course of the second day of hearing the hearing officer sustained the Employer's petition to revoke the subpoena on the ground that the record sufficiently set forth the Employer's interstate commerce activities. As we are satisfied that the Employer's petition to revoke was filed in compliance with the Act and the Board's Rules and Regulations and as the evidence (as discussed hereinafter) establishes that the Employer is engaged in interstate commerce within the meaning of the Act, we hereby adopt the hearing officer's ruling revoking the subpoena. See Rules and Regulations, Sec. 102.58 (c) and *International Broadcasting Corporation (KWKH)*, 102 NLRB 1434.

² See *The T. H. Rogers Lumber Company*, 117 NLRB 1732, and *Essex County and Vicinity District Council of Carpenters, AFL, etc. (Fairmont Construction Company)*, 95 NLRB 969.

After the strike began the Employer permanently replaced a number of the strikers and as of the date of the hearing was apparently operating with a full complement of employees.

In its argument that the petition should be dismissed the Union takes the position that it does not claim to represent the employees presently employed but only the individuals who joined the strike.

The Board's certification of the Union in 1954 served to designate the Union as the representative not only of those employees who were in the unit as of the date of the certification, but also those persons whose subsequent employment placed them within the unit regardless of their specific identity. As the persons who replaced the strikers became permanent employees within the unit for which the Union was certified, we construe the Union's position that it does not claim to represent employees presently employed to mean that the Union is no longer interested in representing the employees in the unit for which it was certified, and therefore the Union has disavowed its claim to majority status. For this reason we find that there now exists no question concerning the representation of the Employer's employees. Accordingly, we shall dismiss the petition. Further, in view of the Union's disavowal of its status as majority representative, it is evident that it would be inconsistent with good practice to permit the Union's certification to remain in existence. Our Order herein shall therefore revoke the certification that was granted the Union in Case No. 4-RC-2409.³

[The Board dismissed the petition in Case No. 4-RM-234, and revoked the certification of June 21, 1954, in Case No. 4-RC-2409.]

³ See *Nathan Warren & Sons, Inc.*, 116 NLRB 1662.

The Bassick Company and International Union of Electrical, Radio and Machine Workers, AFL-CIO, Petitioner. *Case No. 2-RC-8736. August 15, 1957*

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Max Dauber, 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-member panel [Members Rodgers, Bean, and Jenkins].