

In the Matter of EAST TEXAS MOTOR FREIGHT LINES *and* INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA, A. F. of L., LOCAL No. 745

In the Matter of EAST TEXAS MOTOR FREIGHT LINES *and* INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA, A. F. OF L., LOCAL No. 894

Cases Nos. 16-R-785 and 16-R-786, respectively.—Decided March 31, 1944

Mr. Carl B. Callaway, of Dallas, Tex., for the Company.

Mr. T. T. Neal, of Dallas, Tex., for the Teamsters.

Mr. Wallace E. Royster, of counsel to the Board.

DECISION

DIRECTION OF ELECTION

AND

ORDER

STATEMENT OF THE CASE

Upon separate petitions duly filed by International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, A. F. of L., Local Union No. 745, and International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local Union No. 894, herein called, collectively, the Teamsters, alleging that questions affecting commerce had arisen concerning the representation of employees of East Texas Motor Freight Lines, at Tyler and Texarkana, Texas, respectively, herein called the Company, the National Labor Relations Board consolidated the proceedings herein and provided for an appropriate hearing upon due notice before Gustaf B. Erickson, Trial Examiner. Said hearing was held at Dallas, Texas, on January 24, 1944. The Company and the Teamsters appeared, participated, and 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 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

East Texas Motor Freight Lines is engaged in transporting and delivering goods, wares, and merchandise by motor vehicle in and through the States of Texas, Louisiana, Arkansas, Tennessee, Missouri, Illinois, and other states. At central points within the areas it serves, the Company has established terminals. The employees working at the terminals at Tyler and Texarkana, Texas, are involved in this proceeding. The Company does not contest the jurisdiction of the Board, and we find that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

Local Unions Nos. 745 and 894 of International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America are labor organizations affiliated through their International with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On November 25, 1943, and on many occasions since that date the Teamsters has sought a conference with the Company for the purpose of obtaining recognition as the exclusive bargaining representative for the employees at the Tyler, Texas, and Texarkana, Texas, terminals. The Company has refused to agree to such a conference.

A. *The Tyler terminal. Case No. 16-R-785*

A statement of the Field Examiner introduced in evidence at the hearing, indicates that the Teamsters represents a substantial number of employees working as dockmen, helpers, and truck drivers at the Tyler terminal.¹

We find that a question affecting commerce has arisen concerning the representation of employees of the Company working at the Tyler, Texas, Terminal within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

¹The Field Examiner stated that the Teamsters submitted evidence in the form of a petition indicating that four of the five employees in the appropriate bargaining unit at the Tyler, Texas, terminal are its members.

B. The Texarkana terminal. Case No. 16-R-786

Dockmen, helpers, and truck drivers are employed also at the Texarkana terminal. The Teamsters would include these categories in the unit it proposes at this terminal and would further include "line" drivers who are based at Texarkana. The Company asserts that all "line" drivers are based at Dallas and are assigned to runs to suit its operating needs and denies that any are based at Texarkana. In any event we need not now decide the propriety of the unit proposed at Texarkana. A statement of the Field Examiner introduced in evidence at the hearing indicates that the Teamsters has made an insubstantial showing of membership among the employees at the Texarkana terminal.² Accordingly, we find that no question affecting commerce has arisen concerning the representation of employees of the Company at the Texarkana terminal, and we shall dismiss the Teamsters' petition in Case No. 16-R-786.

IV. THE APPROPRIATE UNIT

In its petition filed in Case No. 16-R-785, the Teamsters requests a unit of all dockmen, truck drivers, and helpers, excluding supervisory and clerical employees at the Company's Tyler, Texas, terminal.

At Tyler, as presumably at its other terminals, the Company employs dockmen, who handle freight arriving at and leaving from the terminal, as well as truck drivers and helpers. The truck drivers and helpers pick up freight at nearby points, deliver it to the terminal for shipment, pick up freight deposited at the terminal by the "line" trucks, and deliver it to the consignee. "Truck drivers" are thus distinguishable from "line" drivers who drive "line" trucks or "over the road" trucks from one terminal to another. As stated elsewhere in this decision, the Company asserts that its "line" drivers are based at Dallas, Texas, and are assigned to runs as the burden of traffic necessitates. While the Teamsters claimed "line" drivers as part of the unit sought at Texarkana, it does not request their inclusion here. Dockmen, truck drivers, and helpers are based at the terminal where they work and are not a mobile force like the "line" drivers.

The Company asserts that all truck drivers, helpers, and dockmen employed in the Texas area constitute an appropriate bargaining unit, and that, in any event, "line" drivers or "over the road" drivers should not be included in a unit with local terminal employees. For more than 2 years the parent international union of the Teamsters has had two sets of collective bargaining contracts with the Company, one for all

² The Field Examiner stated that the Teamsters submitted a petition to which was appended 17 apparently genuine signatures. Among the signatures, however, were the names of only 2 of the 21 employees at the Texarkana, Texas, terminal.

"line" drivers and the other for all dockmen, pick-up men or truck drivers, and helpers who are employed north and east of Little Rock, Arkansas. The Company contends that the pattern of bargaining so established should be extended to cover the employees engaged in similar occupations in the Texas area. Obviously this contention is reasonable and would merit serious consideration if it appeared that a labor organization was seeking to represent the Texas employees in such units. However, there is no indication in this proceeding that self-organization among the employees has been effective except at the Tyler terminal. It is the policy of the Board to facilitate collective bargaining and not to require a group of employees who may constitute an appropriate bargaining unit to await the organization of a unit possibly more appropriate. Dockmen, truck drivers, and helpers at the Tyler terminal constitute a clearly defined group with complementary skills and functions and we are of the opinion that, under present circumstances, they may constitute a single bargaining unit. Accordingly, we find that all dockmen, truck drivers, and helpers employed at the Tyler, Texas, terminal of the Company, excluding clerical employees, "line" drivers, dock foremen, and any other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise affect 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 payroll 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, it is hereby,

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with East Texas Motor Freight Lines, Tyler, Texas, 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 Director for the Sixteenth 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 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 International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local Union No. 745, A. F. of L., for the purposes of collective bargaining.

ORDER

Since we have found in Section III above that no question concerning representation has arisen with respect to the employees of East Texas Motor Freight Lines at its Texarkana, Texas, terminal, the National Labor Relations Board hereby orders that the petition for investigation and certification of representatives filed herein in Case No. 16-R-786, by International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local Union No. 894, A. F. of L., be, and it hereby is, dismissed.