

In the Matter of RIB LAKE LUMBER COMPANY and INTERNATIONAL
WOODWORKERS OF AMERICA, CIO

Case No. 18-R-990.—Decided May 22, 1944

Mr. O. S. Hoebrechts, of Rhinelander, Wis., for the Company.

Mr. Edward J. Lambert, of Wausau, Wis., for the Union.

Mr. William Strong, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by International Woodworkers of America, CIO, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Rib Lake Lumber Company, Rib Lake, Wisconsin, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Clarence A. Meter, Trial Examiner. Said hearing was held at Rib Lake, Wisconsin, on April 25, 1944. 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

Rib Lake Lumber Company, a Delaware corporation with its principal office and place of business at Rib Lake, Wisconsin, is engaged in the logging and lumber business in the States of Wisconsin and Michigan. We are here concerned with its operations near Rib Lake, Wisconsin. During 1943, raw materials, consisting of logs, pulpwood, shingle bolts, cedar posts, poles, and ties, in an amount approxi-

56 N. L. R. B., No. 147.

ating 12,977,000 board feet, representing about 55 percent of the total raw materials used during the year, were shipped to the Company at Rib Lake, Wisconsin, from points outside the State of Wisconsin. During the same period, the Company shipped approximately 9,574,750 board feet of finished products, constituting about 25 percent of its total production, from Rib Lake to points outside the State of Wisconsin.

We find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

International Woodworkers 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

The Company has refused to grant recognition to the Union as the exclusive bargaining representative of certain of the Company's employees until the Union has been certified by the Board in an appropriate unit.

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.¹

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 parties stipulated that an appropriate unit should consist, in part, of all production and maintenance employees of the Company in and about its plant at Rib Lake, Wisconsin, including sawmill employees, planing mill employees, yard employees, and yard section crew, but excluding office and clerical employees, shippers, hardwood graders, store clerks, cleaning woman, first aid man, and dry-kiln operator, all employees in the logging operations, foremen, and all other supervisory employees. The Union would also include in the unit the railroad train crew, the woods section crew, and the watchmen. The Company opposes the inclusion of these employees.

Train crew and woods section crew—The Company carries on logging operations approximately 20 miles from its Rib Lake plant. These operations are connected with the plant by a railroad, which the Company owns and operates, and which is not a common carrier.

¹ The Field Examiner reported that the Union submitted 69 designation cards, and that there are 183 employees in the appropriate unit.

The train crew, which consists of an engineer, fireman, and conductor, operates the trains which haul about 45 percent of the logs used at the mill, from the woods to the mill. The train crew spends about one-sixth of its time switching in the yards, spotting cars of logs at the mill, and switching cars of finished lumber.

The woods section crew maintains the railroad tracks and equipment, outside of the yard.² The woods section crew normally has its headquarters in Rib Lake; however, about one-third of the time the woods section crew lives and boards at the Company's camp in the woods.

Both the train crew and the woods section crew are under the supervision of the superintendent of woods operations; however, they are carried on the plant pay roll for cost purposes. Temporary replacements for either crew may come from among the plant employees or the woods employees. Permanent transferees in the past have come also from among both the plant and the woods employees.

There is no history of collective bargaining between the Company and its employees; the Union is the sole labor organization at present seeking to organize them.

It appearing that the only labor organization among the Company's employees seeks to include the train crew and the woods section crew in the unit, that the yard section crew has been included by stipulation in the unit by both parties, and that these groups of employees could properly constitute a part of either a plant employees' unit or a woods employees' unit, or of a unit composed of all employees, in the woods and in the plant, we shall include the train crew and the woods section crew in the plant employees' unit which we find appropriate.³

The watchmen are neither armed nor uniformed, nor are they militarized. These watchmen perform the ordinary, routine duties of that category of employment. The Company objects to the inclusion of watchmen in the unit on the ground, in substance, that they are the only representatives of the Company on its property when no others are present, that their services would be required in the event of a strike, that they must be employees in whom the Company has full confidence, and that the Company could not have confidence in employees who are "under the Union's jurisdiction." We have repeatedly rejected this line of objection to exercise by non-supervisory watchmen of rights under the Act.⁴ Nothing in our experience leads us to

² The yard section crew, which maintains the tracks in the yard of the Company's plant, has been included in the unit by stipulation.

³ Bargaining between other employers and their employees, referred to by the Company, is inconclusive and furnishes little basis for the unit determination.

⁴ See, e. g., *Matter of Dravo Corporation*, 52 N. L. R. B. 322; *Matter of Maryland Drydock Company*, 49 N. L. R. B. 733 and 50 N. L. R. B. 363; *Matter of Berkey and Gay The National Supply Company*, 56 N. L. R. B. 639; *Matter of H. J. DeFoe et al., Furniture Company*, 56 N. L. R. B. 578; *Matter of The Spang Chalfant Division of* 56 N. L. R. B. 808.

conclude that the exercise of such rights is incompatible with the full, honest, and loyal performance by employees of their duty to the employer. Nor are we persuaded that the watchmen should be denied the right to representation, if they so desire, by the Union.⁵ We shall include the watchmen in the appropriate unit.

We find that all production and maintenance employees of the Company in and about its plant at Rib Lake, Wisconsin, including sawmill employees, planing mill employees, yard employees, yard section crew, woods section crew, train crew, and watchmen, but excluding office and clerical employees, shippers, hardwood graders, store clerks, cleaning woman, first aid man, and dry kiln operator; all employees in the logging operations, foremen, and any 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, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Rib Lake Lumber Company, Rib Lake, Wisconsin, 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 Eighteenth 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

⁵ See e. g., *Berkey and Gay*, *Spang Chalfant*, and *DeFoe* cases, *supra*.

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 any 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 Woodworkers of America, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.

CHAIRMAN MILLIS took no part in the consideration of the above Decision and Direction of Election.