

In the Matter of LEE CLAY PRODUCTS COMPANY *and* UNITED BRICK  
& CLAY WORKERS OF AMERICA, LOCAL NO. 486

*Case No. C-248.—Decided October 8, 1937*

*Clay Mining and Products Industry—Settlement:* agreement to comply with  
Act—*Order:* entered on stipulation; without hearing.

*Mr. Leonard S. Shore* for the Board.

*Mr. Millard L. Midonick*, of counsel to the Board.

## DECISION

### STATEMENT OF THE CASE

Upon charges duly filed by United Brick & Clay Workers of America, Local No. 486, herein called the Union, the National Labor Relations Board, herein called the Board, by Philip G. Phillips, Regional Director for the Ninth Region (Cincinnati, Ohio), issued and duly served its complaint, dated August 31, 1937, against Lee Clay Products Company, Clearfield, Kentucky, herein called the respondent, alleging that the respondent had engaged in and was engaging in unfair labor practices affecting commerce, within the meaning of Section 8, subdivisions (1), (3), and (5) and Section 2, subdivisions (6) and (7) of the National Labor Relations Act, 49 Stat. 449, herein called the Act.

The complaint in substance alleged (1) that the respondent is a Kentucky corporation, having its principal office and place of business in the Town of Clearfield, County of Rowan, State of Kentucky, where it is engaged in the mining of clay and the manufacturing of the mined clay into flue linings, clay drain pipe, clay tile, and other clay products; that the respondent in the conduct of its business causes raw and other materials to be purchased and transported in interstate commerce, and the products manufactured by it to be sold and transported in interstate commerce; (2) that the Union is a labor organization affiliated with the American Federation of Labor; (3) that the production employees at the Clearfield, Kentucky, plant of the respondent constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act; that on or before June 7, 1935, the majority of the employees in said unit designated the Union as their representative by duly enrolling as members of the Union, and that the Union has

at all times since June 7, 1935, continued to be the representative for collective bargaining of a majority of the employees in said unit, and that, by virtue of Section 9 (a) of the Act, has been the exclusive representative of all of the employees in said unit for purposes of collective bargaining; that on June 7, 1935, and at all times subsequently, the respondent has refused to meet with or bargain collectively with the Union as the representative of its production employees; (4) that because of the respondent's refusal to bargain collectively with the Union, a strike occurred on or about June 7, 1935, which caused the respondent's plant to cease operations until September 23, 1935, at which time the said strike ended and the plant reopened; that the respondent following said strike has at all times refused to reinstate 42 named employees for the reason that those employees had joined and assisted the Union and engaged in activities for the purposes of collective bargaining and other mutual aid and protection; (5) that the respondent discharged 11 named employees on October 5, 1935, 12 named employees on February 14, 1936, and 2 named employees on April 9, 1937, and has at all times since refused to reinstate them, all for the reason that said employees joined and assisted the Union and engaged in concerted activities with other employees in the plant for the purposes of collective bargaining and other mutual aid and protection; (6) that the respondent at various times since July 5, 1935, has been making derogatory remarks concerning the Union; that it has been requiring of its employees as a condition of employment a promise that they would not engage in concerted activities for collective bargaining, and that they would not join a *bona fide* labor organization for a period of twelve months from the date of their employment; that it has been threatening and intimidating said employees to keep them from joining the Union.

Although notice of hearing was duly served, it was unnecessary to hold a hearing in view of the stipulation dated September 16, 1937, by which the respondent signified its consent to the issuance of an order by the Board, in the terms stated below, and to this all parties to the proceeding agreed.

#### ORDER

On the basis of the aforesaid stipulation, and pursuant to Section 10, subdivision (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that

1. The respondent, Lee Clay Products Company, and its officers, agents, successors, and assigns shall:

a. Cease and desist from

(1) In any manner interfering with, restraining or coercing its employees in the exercise of their rights to self-organization, to form,

join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purposes of collective bargaining or other mutual aid or protection, as guaranteed under Section 7 of the Act;

(2) Threatening its employees with discharge or discriminating in regard to hire or tenure of employment or any term or condition of employment, because of its employees' affiliation with, or their membership in, any labor organization of its employees at its Clearfield, Kentucky, plant.

b. Take the following affirmative action to effectuate the policies and purposes of the National Labor Relations Act:

(1) Restore to their former positions by October 1, 1937, the following named employees

Harlan Acree	Willie Jennings
John Hoy	Chester Keeton
Gilbert Arnold	Clyde Keeton
Louie Crager	A. V. Lambert
Denton Collins	Earl Mynhair
Fred Collins	P. M. McMaine
G. E. Fugate	P. M. Prather
Truby Gregory	I. N. Prewitt
J. T. Howerton	Melvin Smedley
Gale Ison	Bill Stewart
Jesse Johnson	Jason Stewart

(2) Offer to the following named employees

Corbett Wallace	Willie Jones
T. C. Brown	S. C. Perry
Willie Brown	J. H. Wallace
Hollie Brown	Willie Wallace
Corbett Gregory	Bill Walton
Arnold Gregory	

any positions at the mine which they are qualified to fill and which now are being held by men employed since October 17, 1935. Place any of the above-named employees, for whom jobs cannot be secured, at the mines, on a preferential list and offer first to them any jobs which become available either at the plant or at the mine on the basis of their seniority;

(3) Make whole the persons named in paragraph b (1) above, and each of them, for any losses of pay they have suffered by reason of their discharge by payment to them respectively, a sum of money equal to that which each employee would normally have earned as wages based on a forty-hour week basis at the basic hourly rate in effect for each position during the period beginning September 23, 1935

to April 15, 1936, less any moneys which the employee earned during said period, provided that boiler firemen and truck drivers shall have their back pay computed on the basis of a forty-eight hour week;

(4) Upon request bargain collectively for the period of one year with the United Brick & Clay Workers of America, Local No. 486, as the exclusive representatives of all its production employees at its Clearfield, Kentucky, plant excepting supervisory and clerical employees in respect to rates of pay, wages, hours of employment, and other conditions of employment;

(5) Post immediately notices to its employees in conspicuous places throughout its place of business, stating that the respondent will cease and desist in the manner aforesaid, and that such notices will remain posted for a period of at least thirty (30) consecutive days from the date of posting;

(6) Notify the Regional Director for the Ninth Region in writing within ten (10) days from the date of this order what steps the respondent has taken to comply herewith.

2. The complaint be, and hereby is, dismissed without prejudice, with reference to the following named employees:

Walter Caudill  
Charles VanNess  
George Ruggles  
Arthur Borndollar  
Eli Gregory  
Morgan Stewart  
James Stewart

Cana Amburgey  
Arlie Davis  
Robert Crager  
Sam Wright  
Levi Gregory  
Allen Gregory