

In the Matter of ARMOUR & COMPANY and UNITED PACKING HOUSE
WORKERS INDUSTRIAL LOCAL UNION No. 389 AFFILIATED WITH CIO

Case No. R-658.—Decided June 6, 1938

Meat Packing Industry—Investigation of Representatives: controversy concerning representation of employees: refusal by employer to recognize petitioning union as exclusive representative—*Unit Appropriate for Collective Bargaining:* all hourly paid and piece-work production and maintenance employees, excluding foremen, assistant foremen, superintendents, executives, office force, clerical workers, watchmen, truck drivers, waitresses and cooks, and general office janitors; no controversy as to—*Representatives:* proof of choice: comparison of pay roll with union membership cards—*Certification of Representatives:* upon proof of majority representation.

Mr. Stephen M. Reynolds, for the Board.

Mr. John J. Brownlee, of Chicago, Ill., for the United.

Mr. Harry E. Selekman, of counsel to the Board.

DECISION

AND

CERTIFICATION OF REPRESENTATIVES

STATEMENT OF THE CASE

On February 25, 1938, United Packing House Workers Local Industrial Union No. 389, through Packing House Workers Organizing Committee,¹ herein called the United, filed with the Regional Director for the Thirteenth Region (Chicago, Illinois) a petition alleging that a question affecting commerce had arisen concerning the representation of employees of Armour & Company, Sioux City, Iowa, herein called the Company, and requesting an investigation and certification of representatives pursuant to Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. On March 28, 1938, the National Labor Relations Board, herein called the Board, acting pursuant to Section 9 (c) of the Act and Article III, Section 3, of National Labor Relations Board Rules and Regulations—Series 1, as amended, ordered an investigation and authorized the Regional Director to conduct it and to provide for an appropriate hearing upon due notice.

¹The original petition was signed by United Packing House Workers Local No. 389, and the amended petition was signed by the United Packing House Workers Industrial Local Union No. 389, affiliated with the C. I. O. At the hearing the name of the petitioning union was amended without objection to United Packing House Workers Local Industrial Union No. 389, through Packing House Workers Organizing Committee.

On March 31, 1938, the Regional Director issued a notice of hearing, copies of which were duly served upon the Company and upon the United. Pursuant to the notice, a hearing was held on April 7, 1938, at Sioux City, Iowa, before Peter F. Ward, the Trial Examiner duly designated by the Board. The Board and the United were represented by counsel and participated in the hearing. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all parties. During the course of the hearing the Trial Examiner made several rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY ²

Armour & Company, an Illinois corporation, operates a plant at Sioux City, Iowa, where it is engaged in the slaughtering of livestock and the processing of various products. Approximately 58 per cent of the livestock purchased by the Company originates in States outside Iowa. It ships approximately 89 per cent of its finished products outside Iowa. During the fiscal year ending October 30, 1937, it purchased and slaughtered over 545,000 animals, amounting to a total value of about \$14,000,000. During the same period, the plant shipped out of the State 142,300,000 pounds of products, with a total value of \$19,886,000.

II. THE ORGANIZATION INVOLVED

United Packing House Workers Local Industrial Union No. 389 is a labor organization affiliated with the Committee for Industrial Organization, admitting to its membership all hourly paid and piecework production and maintenance employees, excluding foremen, assistant foremen, superintendents, executives, office force, clerical workers, watchmen, truck drivers, waitresses and cooks, and general office janitors.

III. THE QUESTION CONCERNING REPRESENTATION

On February 7, 1938, officials of the United claimed that it represented a majority of the production and maintenance employees of the Company and demanded recognition as the exclusive bargain-

² The facts set forth in this section are taken from Board Exhibit No 2, a stipulation entered into by the Company and the Board.

ing representative for such employees. Upon the refusal of the Company to grant such recognition, the United requested that the Company consent to an election. However, the Company refused to negotiate with the United unless the Board certified the United as the bargaining representative.

We find that a question has arisen concerning representation of employees of the Company.

IV. THE EFFECT OF THE QUESTION CONCERNING REPRESENTATION UPON COMMERCE

We find that the question concerning representation which has arisen, occurring in connection with the operations of the Company described in Section I above, has a close, intimate, and substantial relation to trade, traffic, and commerce among the several States, and tends to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

V. THE APPROPRIATE UNIT

The Company and the United agreed at the hearing that the appropriate unit should consist of all hourly paid and piece-work production and maintenance employees, excluding foremen, assistant foremen, superintendents, executives, office force, clerical workers, watchmen, truck drivers, waitresses and cooks, and general office janitors.

We find that all hourly paid and piece-work production and maintenance employees of the Company, excluding foremen, assistant foremen, superintendents, executives, office force, clerical workers, watchmen, truck drivers, waitresses and cooks, and general office janitors, constitute a unit appropriate for the purpose of collective bargaining and that said unit will insure to employees of the Company the full benefit of their right to self-organization and to collective bargaining and otherwise effectuate the policies of the Act.

VI. THE DETERMINATION OF REPRESENTATIVES

The Company submitted in evidence a pay roll as of the week ending April 2, 1938,³ containing the names of 589 production and maintenance employees. The United introduced in evidence 455 application cards signed by employees of the Company. No question was raised as to the genuineness of the signatures on these cards. A comparison of these cards and the pay roll of April 2, 1938, reveals that the names of 358 employees appear both on the cards and on the pay roll. We find that the United has been designated and selected by a majority of the employees in the appropriate unit as their representative for

³ Board Exhibit No. 3, the pay roll next preceding the date of the hearing.

the purposes of collective bargaining. It is, therefore, the exclusive representative of all the employees in such unit for the purpose of collective bargaining, and we will so certify.

Upon the basis of the above findings of fact and upon the entire record in the case, the Board makes the following:

CONCLUSIONS OF LAW

1. A question affecting commerce has arisen concerning the representation of employees of Armour & Company, Sioux City, Iowa, within the meaning of Section 9 (c) and Section 2 (6) and (7), of the National Labor Relations Act.

2. The hourly paid and piece-work production and maintenance employees of the Company, excluding foremen, assistant foremen, superintendents, executives, office force, clerical workers, watchmen, truck drivers, waitresses and cooks, and general office janitors, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the National Labor Relations Act.

3. United Packing House Workers Local Industrial Union No. 389, through Packing House Workers Organizing Committee, is the exclusive representative of all the employees in such unit for the purposes of collective bargaining, within the meaning of Section 9 (a) of the National Labor Relations Act.

CERTIFICATION OF REPRESENTATIVES

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 8, of National Labor Relations Board Rules and Regulations—Series 1, as amended,

IT IS HEREBY CERTIFIED that United Packing House Workers Local Industrial Union No. 389, through Packing House Workers Organizing Committee, has been designated and selected by a majority of the hourly paid and piece-work production and maintenance employees of Armour & Company, Sioux City, Iowa, excluding foremen, assistant foremen, superintendents, executives, office force, clerical workers, watchmen, truck drivers, waitresses and cooks, and general office janitors, as their representative for the purposes of collective bargaining and that, pursuant to the provisions of Section 9 (a) of the Act, United Packing House Workers Local Industrial Union No. 389, through Packing House Workers Organizing Committee, is the exclusive representative of all such employees for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.