

In the Matter of SEAS SHIPPING COMPANY and NATIONAL ORGANIZATION MASTERS, MATES & PILOTS OF AMERICA

Case No. R-755.—Decided June 13, 1938

Water Transportation Industry—Investigation of Representatives: controversy concerning representation of employees—Unit Appropriate for Collective Bargaining: licensed deck officers; no controversy as to—Election Ordered

Mr. Albert Ornstein, for the Board.

Mr. Frank B. Barns, of New York City, for the Company.

Mr. Edward T. Pinchin, of New York City, for M. M. P.

Mr. Roman Beck, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

On February 26, 1938, National Organization Masters, Mates & Pilots of America, herein called M. M. P., filed with the Regional Director for the Second Region (New York City) a petition alleging that a question affecting commerce had arisen concerning the representation of employees of Seas Shipping Company, 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 7, 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.

On April 18, 1938, the Regional Director issued a notice of hearing, copies of which were duly served upon the Company, upon M. M. P., and upon United Licensed Officers, herein called U. L. O., a labor organization purporting to represent employees directly affected by the investigation. Pursuant to the notice, a hearing was held on April 28, 1938, at New York City, before Mapes Davidson, the Trial Examiner duly designated by the Board. The Board and the

Company were represented by counsel; M. M. P. was represented by its National Trustee; and all participated in the hearing. U. L. O. did not appear and was not represented at 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 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

Seas Shipping Company, New York City, is a New York corporation engaged in the business of transporting freight and passengers by ship between the United States and Africa. It operates four vessels. A Master, a Chief Officer, a Second Officer, and a Third Officer, all required by law to be licensed, are employed on each of the four vessels.

On December 4, 1936, in an earlier case involving the Company, the Board rendered a Decision in which it found that the Company was engaged in commerce within the meaning of the Act.¹ Further details regarding the Company's business will be found therein. There has been no change in the nature and scope of the Company's business since the issuance of that Decision.

We find that the Company is engaged in traffic, transportation, and commerce among the several States and between the United States and foreign countries, and that the licensed deck officers engaged in the operation of the four ships of the Company are directly engaged in such traffic, transportation, and commerce.

II. THE ORGANIZATION INVOLVED

National Organization Masters, Mates & Pilots of America is a labor organization, admitting to its membership licensed deck officers.

III. THE QUESTION CONCERNING REPRESENTATION

In its petition and at the hearing, M. M. P. claimed to represent a majority of the deck officers employed by the Company. The

¹ *Matter of Seas Shipping Company and National Marine Engineers' Beneficial Association, Local No. 33*, 2 N. L. R. B. 398.

executive vice president of the Company stated at the hearing that it preferred certification by the Board before it recognized M. M. P. as the exclusive bargaining representative of its licensed deck officers.

We find that a question has arisen concerning representation of employees of the Company, and that such question tends to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

IV. THE APPROPRIATE UNIT

In its petition M. M. P. claimed that the licensed deck officers of the four vessels operated by the Company constitute a unit appropriate for the purposes of collective bargaining. The Company did not dispute this. As has been said, U. L. O. failed to appear at the hearing. The unit claimed to be appropriate by M. M. P. is in accord with the unit heretofore found by us to be appropriate in previous cases.²

We find that the licensed deck officers employed by the Company, including the Masters, Chief Officers, Second Officers, and Third Officers, constitute a unit appropriate for the purposes of collective bargaining and that said unit will insure to such 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.

V. THE DETERMINATION OF REPRESENTATIVES

M. M. P. claimed to represent a majority of the employees of the Company in the appropriate unit, but introduced no evidence to substantiate its claim, other than the testimony of its representative that its claim is founded upon signed authorizations. The authorizations were not introduced in evidence as the parties orally stipulated that the question of representation be determined by the Board by the holding of an election by secret ballot. The holding of an election by secret ballot is necessary, therefore, to resolve the question concerning representation.

VI. CONDUCT OF ELECTION

New ships' articles are signed for every round-trip voyage. Each voyage is of 4 months' duration. In order to expedite the election, and in view of the practical difficulties involved, we will order that notices of election, a sample ballot, a list of licensed deck officers who

² *Matter of Grace Line, Inc., and Panama Mail Steamship Company and National Marine Engineers' Beneficial Association, Local No 33*, 2 N. L. R. B 369, and cases cited at page 375.

are eligible to vote, and the time and place where the balloting will be held, shall be posted as soon as possible after the date of this Direction of Election on each vessel operated by the Company before it leaves its home port in New York City. Balloting shall take place in the discretion of the Regional Director either when the vessel returns to its home port or, in the case of vessels making another stop or stops in United States ports, at any of such other ports of call in the United States. Eligibility to vote shall be limited to those licensed deck officers who were employed as such on vessels operated by the Company at any time between February 26, 1938, the date of the filing of the petition, and the date of this Direction of Election, and who also sign articles to make the round-trip voyage next following the date of the issuance of this Direction of Election on the vessels operated by the Company on which the Regional Director posts notices pursuant to this section.

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. The licensed deck officers employed by the Company, including Masters, Chief Officers, Second Officers, and Third Officers, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the National Labor Relations Act.

2. A question affecting commerce has arisen concerning the representation of licensed deck officers employed by the Seas Shipping Company, New York City, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the National Labor Relations Act.

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, 49 Stat. 449, and pursuant to Article III, Section 8, of National Labor Relations Board Rules and Regulations—Series 1, as amended, it is

DIRECTED that, as part of the investigation authorized by the Board to ascertain representatives for collective bargaining with Seas Shipping Company, New York City, an election by secret ballot shall be conducted as soon as convenient, and beginning as promptly as is practicable after the date of this Direction, subject to the directions for the conduct of the election set forth in Section VI above, under the direction and supervision of the Regional Director for the Second

Region, acting in this matter as agent of the National Labor Relations Board, and subject to Article III, Section 9, of said Rules and Regulations, among the licensed deck officers, including the Masters, the Chief Officers, the Second Officers, and the Third Officers, employed on vessels operated by the Seas Shipping Company and eligible to vote as set forth in Section VI above, to determine whether or not they desire to be represented by National Organization Masters, Mates & Pilots of America, for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.