

In the Matter of JAMES McWILLIAMS BLUE LINE, INC. and INLAND
BOATMEN'S UNION OF THE ATLANTIC AND GULF

Case No. R-749.—Decided June 15, 1938

Water Transportation Industry—Investigation of Representatives: controversy concerning representation of employees: employer's refusal to grant recognition of union until question of representation is determined by Board; expiration of contract with union other than petitioner—*Unit Appropriate for Collective Bargaining*: unlicensed personnel employed on coal and oil barges; no controversy as to—*Representatives*: proof of choice: comparison of pay-roll list and union membership and pledge cards—*Certification of Representatives*: upon proof of majority representation.

Mr. Albert Ornstein, for the Board.

Mr. Charles F. Kellers, of New York City, for the Company.

Mr. William L. Standard, by *Mr. Max Lustig*, of New York City, for the I. B. U.

Mr. Allan Lind, of counsel to the Board.

DECISION

AND

CERTIFICATION OF REPRESENTATIVES

STATEMENT OF THE CASE

On December 31, 1937, and on April 9, 1938, Inland Boatmen's Union of the Atlantic and Gulf, herein called the I. B. U.,¹ filed with the Regional Director for the Second Region (New York City) a petition and an amended petition, respectively, alleging that a question affecting commerce had arisen concerning the representation of employees of James McWilliams Blue Line, Inc., New York City, 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 5, 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 It appears from the evidence presented at the hearing that the petition was filed on behalf of Local No. 2 of the I. B. U.

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 12, 1938, the Regional Director issued a notice of hearing, copies of which were duly served upon the Company, upon the I. B. U., upon the Harbor Towboatmen's Union, Locals 933-3 and 933-1, upon the International Union of Operating Engineers, upon the National Marine Engineers Beneficial Association, and upon the United Licensed Officers of U. S. A.

Pursuant to a notice of postponement, a hearing was held on April 30, 1938, at New York City, before Elliott L. Biskind, the Trial Examiner duly designated by the Board. The Board and the I. B. U. were represented by counsel, the Company by its secretary, Charles F. Kellers. All participated in the hearing. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing upon the issues was afforded all parties. The other unions who had been notified of the hearing did not put in an appearance at the hearing. 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

James McWilliams Blue Line, Inc. is a New Jersey corporation with its principal place of business at New York City. It is engaged in the business of transportation of oil, coal, sand, crushed stone, clay, and scrap iron by tugs and barges. Oil is transported principally from New York City and New Jersey to Connecticut, Rhode Island, and Massachusetts; it is also obtained from ocean-going tankers and transported to these New England States. Coal originates in Pennsylvania, Virginia, West Virginia, and Kentucky, and also in Russia. It is transported by the Company from New Jersey, Connecticut, and ocean-going freighters, to Rhode Island, Connecticut and Massachusetts. Sand and clay are transported from New Jersey and New York to Connecticut. Crushed stone is transported from Connecticut to Rhode Island and Massachusetts. Scrap iron is transported from Connecticut to New York principally, as well as from Massachusetts and Rhode Island to New York. These commodities are transported on the waters of Long Island Sound, the New York State Barge Canal, East River, Hudson River, and

connecting inland waterways. The Company owns 55 to 60 coal barges, 4 stake boats, 3 oil barges, and several tug boats. At the time of the hearing it operated about 40 coal barges, 2 oil barges, and its stake and tug boats. The capacity of the coal barges varies from 850 to 1,550 tons. The two oil barges have a capacity of 500,000 gallons to 600,000 gallons. On all of its vessels the Company employs approximately 103 employees, of whom approximately 53 are employed on its coal and oil barges.

II. THE ORGANIZATION INVOLVED

Inland Boatmen's Union of the Atlantic and Gulf is a labor organization affiliated with the Committee for Industrial Organization, admitting to its membership all maritime employees working on crafts sailing on the inland waterways. Local No. 2 of the I. B. U. admits to its membership all unlicensed seamen who are employed on unpropelled crafts plying the inland waterways.

III. THE QUESTION CONCERNING REPRESENTATION

Claiming to represent a majority of the unlicensed personnel of the Company on its coal and oil barges, the I. B. U. sought recognition as the exclusive bargaining representative of such employees. The Company, however, refused to grant such recognition in the absence of certification by the Board. The Company stated at the hearing that the seamen employed on its oil barges were covered by an agreement with the Harbor Towboatmen's Union, which claimed to represent a majority of such employees. This contract expired, however, on April 30, 1938.

We find that a question has arisen concerning the 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 I. B. U. seeks a bargaining unit consisting of all the unlicensed employees of the Company on its coal and oil barges. The

work of both the coal and oil barge employees is essentially the same, as are the conditions and hours of employment. Although the Company stated that the Harbor Towboatmen's Union claimed to represent personnel on its oil barges, it raised no objection to the unit sought by the I. B. U.

We find that the unlicensed personnel employed on the Company's coal and oil barges 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

In support of its claim that Local No. 2 represented a majority of the employees of the Company on the coal and oil barges, the I. B. U. brought to the hearing 35 membership cards and 19 pledge cards. The I. B. U. read into the record, without objection, the names on 31 of the membership cards and the names on 16 pledge cards. The Company submitted in evidence its pay-roll list as of March and April 1938. The names of 32 of the 53 employees in the unit considered appropriate above are among those read into the record by the I. B. U.

We find that the I. B. U. Local No. 2 has been designated and selected by a majority of the employees in the appropriate unit as their representative for the purposes 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 James McWilliams Blue Line, Inc., New York City, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the National Labor Relations Act.

2. The unlicensed personnel employed on the Company's coal and oil barges constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the National Labor Relations Act.

3. The Inland Boatmen's Union of the Atlantic and Gulf, Local No. 2, is the exclusive representative of all the employees in such a unit for the purpose 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 Inland Boatmen's Union of the Atlantic and Gulf, Local No. 2, has been designated and selected by a majority of the unlicensed personnel employed on the coal and oil barges of James McWilliams Blue Line, Inc., New York City, as their representative for the purpose of collective bargaining and that, pursuant to the provisions of Section 9 (a) of the Act, Inland Boatmen's Union of the Atlantic and Gulf, Local No. 2, is the exclusive representative of all such employees for the purpose of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.