

In the Matter of FLORIDA ALL-BOUND BOX COMPANY, INC., EMPLOYER
and FOOD, TOBACCO, AGRICULTURAL AND ALLIED WORKERS UNION OF
AMERICA, CIO, PETITIONER

Case No. 10-R-2628.—Decided August 4, 1947

Messrs. Adrian P. Downing and W. E. Bobo, both of Auburndale, Fla., for the Employer.

Messrs. John G. Lackner and Charles L. Cowl, both of Tampa, Fla., for the Petitioner.

Mr. A. Sumner Lawrence, of counsel to the Board.

DECISION

AND

CERTIFICATION OF REPRESENTATIVES

Under a petition duly filed, the National Labor Relations Board conducted a prehearing election among employees of the Employer in the alleged appropriate unit, to determine whether they desired to be represented by the Petitioner or the American Federation of Labor, or by neither, for the purposes of collective bargaining.

At the close of the election a Tally of Ballots was furnished the parties. The Tally shows that there were approximately 88 eligible employees and that 68 of the eligible voters cast ballots, of which 47 were for the Petitioner, none were for the American Federation of Labor, 21 were against the participating labor organizations, and 8 were challenged.

Thereafter hearing was held at Lakeland, Florida, on June 3, 1947, before W. G. Stuart Sherman, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Upon the entire record in the case, the National Labor Relations Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE EMPLOYER

Florida All-Bound Box Company, Inc., a Florida corporation, has a plant and usual place of business at Auburndale, Florida, where it is
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engaged in the manufacture, sale, and distribution of wire bound veneer shipping containers. During the past year the Employer purchased for use in its manufacturing operations raw materials, including veneer, wire, and lumber valued in excess of \$500,000, of which more than 25 percent was obtained from points outside the State of Florida. During the same period, the Employer sold finished products valued in excess of \$500,000, of which in excess of 5 percent was shipped to points outside the State of Florida.

The Employer admits and we find that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED¹

The Petitioner is a labor organization affiliated with the Congress of Industrial Organizations, claiming to represent employees of the Employer.

III. THE QUESTION CONCERNING REPRESENTATION

The Employer refuses to recognize the Petitioner as the exclusive bargaining representative of employees of the Employer until the Petitioner has been certified by the Board in an appropriate unit.

We find that a question affecting commerce has arisen concerning the representation of employees of the Employer within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

IV. THE APPROPRIATE UNIT

The Petitioner seeks a unit of all production and maintenance employees employed at the Employer's Auburndale, Florida, plant, including machine operators, watchmen, and truck drivers, but excluding shipping and receiving clerks, office and clerical employees, timekeepers, and supervisory employees within the meaning of the Board's usual definition. The only dispute between the Petitioner and the Employer concerns employees referred to as machine operators and watchmen, respectively. With respect to those classifications, the Employer contends that machine operators should be excluded as supervisory employees and that watchmen should be excluded as employees not engaged in production or maintenance work.

Machine operators: The Employer has in its employ, in addition to employees described as foremen,² five machine operators each of

¹ The American Federation of Labor intervened during the earlier phase of this case and participated in the prehearing election but did not appear or participate in the hearing although duly served with notice thereof.

² There is no contention that foremen who supervise the balance of approximately 82 production and maintenance employees should be included within the production and maintenance unit.

whom is in charge of a box fabricating machine and a crew of nine employees engaged in feeding and placing materials in the machine during the course of its operation. Like foremen, machine operators are directly responsible to the plant superintendent and are authorized to settle grievances at the first step in the grievance procedure. Machine operators do little manual labor except in emergencies, and ordinarily spend about 98 percent of their time in supervisory activities. The evidence discloses that machine operators may make and have made effective recommendations with respect to changes in the status of employees under their supervision.³ Although it appears that the recommendations of machine operators are subject to the approval of the plant superintendent, who may make a further investigation, the record does not establish that such investigations supersede or detract from the efficiency of their recommendations as a determinative factor in action taken by the Employer.⁴ We find that the machine operators are supervisory employees and shall accordingly exclude them from the unit hereinafter found appropriate.

Watchmen: As indicated above, the Employer would exclude employees classified as watchmen because they are not engaged in production or maintenance work. Their duties consist of guarding the plant property at night against fire and theft. We are of the opinion that the watchmen herein concerned have interests differing substantially from those of the employees in the production and maintenance unit hereinafter found appropriate. We shall, therefore, exclude them.

We find that all production and maintenance employees employed at the Employer's Auburndale, Florida, plant, including truck drivers, but excluding office employees, clerical employees,⁵ timekeepers, watchmen, and all supervisory employees, 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

The results of the election held prior to the hearing show that the Petitioner received a majority of the votes cast. Since the number of challenged ballots and our present determinations with respect to

³ The testimony of the secretary-treasurer of the Employer, which establishes the authority of the machine operators to make effective recommendations, is not contradicted except insofar as one machine operator testified that he had never been informed that he had such authority.

⁴ See *Matter of Doughnut Corporation of America*, 66 N. L. R. B. 1231; *Matter of Republic Steel Corporation*, 72 N. L. R. B. 525.

⁵ Excluded under this category by agreement of the parties are shipping and receiving clerks who also are supervisory employees.

the disputed categories of employees in no way affect the results of the election, we shall certify the Petitioner as the collective bargaining representative of the employees in the unit found appropriate.

CERTIFICATION OF REPRESENTATIVES

IT IS HEREBY CERTIFIED that Food, Tobacco, Agricultural and Allied Workers Union of America, CIO, has been designated and selected by a majority of the employees in the unit found appropriate in Section IV, above, as their representative for the purposes of collective bargaining, and that pursuant to Section 9 (a) of the Act, the said organization is the exclusive bargaining representative of all such employees for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other conditions of employment.

CHAIRMAN HERZOG took no part in the consideration of the above Decision and Certification of Representatives.