

In the Matter of TIP TOP CREAMERY COMPANY *and* INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, STABLEMEN AND HELPERS  
OF AMERICA, LOCAL UNION No. 417

*Case No. C-287—Decided December 4, 1937*

*Milk and Milk products—Interference, Restraint, or Coercion:* expressed opposition to labor organizations—*Discrimination:* discharge—*Reinstatement Ordered—Back Pay:* awarded pursuant to stipulation.

*Mr. Walter B. Chelf,* for the Board.

*Mr. William C. Karnes,* of Chicago, Ill., for the respondent.

*Mr. S. G. Lippman,* of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

Upon a charge and an amended charge duly filed by International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America, Local Union No. 417, herein called the Union, the Regional Director for the Eleventh Region (Indianapolis, Indiana), issued a complaint on October 25, 1937, against the Tip Top Creamery Company, Vincennes, Indiana, 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 (1), (3), and (5) and Section 2 (6) and (7) of the National Labor Relations Act, 49 Stat. 449, herein called the Act.

The complaint alleges that the respondent is and has been since 1904 a corporation organized under the laws of the State of Indiana, having its principal office and place of business in Vincennes, Indiana, and is engaged in the processing of milk and milk products; that the respondent causes a substantial portion of raw materials used in the processing of its milk and milk products to be purchased and transported from and through states of the United States other than the State of Indiana; and causes a substantial portion of the processed milk and milk products produced by it to be sold and transported through states of the United States other than the State of Indiana.

In respect to the unfair labor practices, the complaint in substance alleges that the respondent, during the period from February 22 to March 1, 1937, terminated the employment of the following employees:

Edward Richardson	Albert Lang
Charles Mikiska	James Cannon
Mildred Jones	Carl Madden
Wayne Walker	

and refused to reinstate Roy Hosea, and has at all times since, refused to reemploy the above-named employees, for the reason that the above-named employees joined and assisted a labor union and engaged in other concerted activities with other employees for the purposes of collective bargaining, and other mutual aid and protection; that since February 5, 1937, the respondent has at various times, by threats, speeches, and conversations with individual employees, and in other ways, discouraged its employees in their affiliations with the Union; that on or before October 10, 1937, a majority of employees in the Vincennes plant, designated the Union as their representative for the purposes of collective bargaining; that at various times since October 1, 1937, the Union requested the respondent to bargain collectively in respect to rates of pay, wages, hours of employment, and other conditions of employment; that the respondent, however, on said date and at all times thereafter refused to bargain collectively with the Union; that the respondent by the aforesaid acts has engaged in unfair labor practices affecting commerce within the meaning of Section 8 (1), (3), and (5) and Section 2 (6) and (7) of the Act.

On November 1, 1937, pursuant to an extension of time duly granted by the Regional Director, the respondent filed its answer which in effect denied every material allegation in the complaint, and in addition set forth its reasons for terminating the employment of the above-named employees.

Pursuant to a notice duly served upon the respondent and the Union, a hearing was held in Vincennes, Indiana, on November 8, 1937, before Alvin M. Douglas, the Trial Examiner duly designated by the Board. The Board and the respondent 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 to the parties.

At the opening of the hearing, the Board moved to dismiss all allegations in the complaint dealing with the alleged refusal of the respondent to bargain within the meaning of Section 8 (5) of the Act.

The Board further moved to strike the complaint in so far as it pertained to Carl Madden. No objections were raised and the Trial Examiner granted the motions.

On November 8, 1937, during the hearing, the respondent signified its consent to the issuance of an order by the Board, in the terms stated below, and this was agreed to by all parties to the proceeding.

### ORDER

On the basis of the above consent, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the respondent, Tip Top Creamery Company, Vincennes, Indiana, and its officers, agents, successors, and assigns, shall:

1. Cease and desist:

a. From interfering with, restraining or coercing its employees in the exercise of their right to form, join, and assist labor organizations of their own choice, and in particular the International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America, Local Union No. 417, to bargain collectively, and to engage in other concerted activities with its production employees, including drivers and excluding supervisory and clerical employees at its Vincennes plant;

b. From discharging or threatening to discharge any of its employees for the reason that such employees have joined or assisted International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America, Local Union No. 417, or any other labor organization of its employees, or from in any other manner discriminating in regard to the hire and tenure of employment of any of its employees in order to encourage or discourage the membership of its employees in, or their affiliation with, any labor organization of its employees.

2. Take the following affirmative action in order to effectuate the policies of the National Labor Relations Act:

a. Offer to Edward Richardson, Charles Mikiska, Albert Lang, Wayne Walker, and James Cannon on or before November 12, 1937, immediate and full reinstatement to their former positions, without prejudice to their seniority and their rights and privileges, dismissing if necessary any employees at present holding such position;

b. Make whole the employees above named for any loss of pay they have suffered by reason of their discharge, by payment to each of them of a sum of money equal to that which they would normally have earned as wages from the date of their discharge to the date of the Tip Top Creamery Company offer of reinstatement, less any amounts earned by them during that period.

3. Post immediately notice to its employees in conspicuous places throughout its plant, stating:

a. That the Tip Top Creamery Company will cease and desist as above set out.

4. Notify the Regional Director for the Eleventh Region in writing within ten (10) days from the date of this stipulation what steps the Tip Top Creamery Company has taken to comply therewith.