

In the Matter of WATERFRONT EMPLOYERS ASSOCIATION OF SOUTHERN CALIFORNIA and INTERNATIONAL LONGSHOREMEN'S & WAREHOUSEMEN'S UNION, LOCAL 1-13

Case No. R-572.—January 29, 1938

Longshoremen: Record incomplete as to appropriate unit; insufficient data on contracts—*Remanded:* for further hearing.

Mr. David Sokol, for the Board.

Mr. A. E. Roth, of San Francisco, Cal., and *Brobeck, Phleger & Harrison,* by *Gregory A. Harrison,* of San Francisco, Cal., for the Association.

Mr. Carey McWilliams, of Los Angeles, Cal., for the I. L. W. U.

Mr. Charles J. Katz and *Mr. John C. Packard,* Los Angeles, Cal., for the International Longshoremen's Association, Local 38-82, Incorporated.

Mr. A. H. Petersen, of Gardena, Cal., for the American Federation of Labor.

Mr. Martin Kurasch, of counsel to the Board.

DECISION

AND

ORDER

On September 21, 1937, International Longshoremen's and Warehousemen's Union, Local 1-13, herein called the I. L. W. U.,¹ filed with the Regional Director for the Twenty-first Region (Los Angeles, California) a petition alleging that a question affecting commerce has arisen concerning the representation of employees of Waterfront Employers Association of Southern California, herein called the Association,² 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 September 27, 1937, the I. L. W. U. filed an amended petition. On November 9, 1937, it filed a second amended petition, and on December 13, 1937, it filed a third amended petition. On October 21, 1937, the

¹ In the original petition, the amended petition, and the second amended petition, the I. L. W. U. was designated International Longshoremen's and Warehousemen's Union, Local for Long Beach and Los Angeles Harbor.

² In the original petition and the amended petition, the Association is designated Waterfront Employers' Association.

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.

Pursuant to notices of hearing duly issued and served, a hearing was held on December 13, 14, and 15, 1937, and on January 6, 1938, at Los Angeles, California, before Dwight W. Stephenson, the Trial Examiner duly designated by the Board. The Board, the Association, the I. L. W. U., and the International Longshoremen's Association, Local 38-82, Incorporated, were represented by counsel and participated in the hearing. A. H. Petersen was permitted to appear and participate in the hearing as a representative of the American Federation of Labor. Full opportunity to be heard, to examine and to cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all parties.

The Association is a California corporation. It is an association of 25 shipping lines, 14 lumber shipping companies and eight stevedore companies. It takes charge of the labor relations of its constituent members with the registered longshoremen in the San Pedro, Los Angeles and Long Beach harbors. The Association stipulated that over fifty percent of the cargo handled in the ports of Long Beach and Los Angeles goes into interstate and foreign commerce.

Generally, the various member companies pay longshoremen through the pay department of the Association by issuing a check to the Association with a copy of the payroll for the week's work. The check is cashed and the Association pays the longshoremen in cash. The Association appoints three members to a Labor Relations Committee which includes also three members appointed by the employees. The Labor Relations Committee takes charge of the maintenance, operation and functioning of the hiring halls and takes charge of grievances and other matters affecting labor relations.

Thomas C. Brown, secretary-treasurer of the I. L. W. U., introduced into evidence cards signed by registered longshoremen in October, November and December, 1937, designating the I. L. W. U. as their representative for purposes of collective bargaining. A comparison of the cards³ with a list of registered longshoremen that had been employed by the Association in the Los Angeles and Long Beach harbors in July, August and September, 1937, indicates clearly that International Longshoremen's & Warehousemen's Union Local 1 to 13 represents the majority of such registered longshoremen.

³ The Trial Examiner permitted the I. L. W. U. to withdraw the cards from the record and to substitute therefor a typewritten list of the names and registration numbers of the men who had signed the cards, and the date on which each union signed.

The petition presents a question the determination of which, under the Act, lies exclusively within the jurisdiction of this Board. Although the evidence of majority is sufficient to warrant a certification, the Board cannot upon this record issue a certification because the record is incomplete in several particulars.

The evidence as to the operation of the hiring hall and the respective functions of the Association and its various members with regard to the employment of longshoremen is incomplete. The Board is thus unable to make an exact determination of appropriate unit. It is especially necessary that the Board have this evidence because on January 19, 1938, International Longshoremen's & Warehousemen's Union, District No. 1, filed with the Regional Director for the Twentieth Region (San Francisco, California) a petition for investigation and certification of representatives in which it was alleged that the unit most appropriate for the purposes of collective bargaining consists of all the workers employed at longshore labor in all the Pacific Coast ports of the United States,⁴ and on January 10, 1938, International Longshoremen's & Warehousemen's Union Local 1-46 filed with the Regional Director for the Twenty-first Region (Los Angeles, California) a petition alleging that the question affecting commerce had arisen concerning the representation of longshoremen employed by Waterfront Employers Association of Southern California in the Santa Barbara and Ventura harbor area.⁵

The record contains a contract between Pacific Coast District, Local 38 of the International Longshoremen's Association, and Waterfront Employers of Seattle, Waterfront Employers of Portland, Waterfront Employers Association of San Francisco and Waterfront Employers Association of Southern California. The record indicates that by virtue of an automatic renewal clause, the contract was renewed on September 30, 1937, for one year. The record is not clear as to which parties have entered into the renewed contract. The record does not indicate the exact relationship of the International Longshoremen's Association Local 38-82 to the contract.

Information in our files indicates that during recent months a great number of the longshoremen on the Pacific Coast have by referendum indicated that they desire to affiliate themselves with the International Longshoremen's & Warehousemen's Union. The record does not show whether Pacific Coast District, Local 38, of the International Longshoremen's Association is still in existence, nor does the record indicate whether the greater number of longshoremen have now joined District 1 of the International Longshore-

⁴ Case No. XX-R-196.

⁵ Case No. XXI-R-421.

men's & Warehousemen's Union or whether a substantial number still remain in Pacific Coast District, Local 38 of the International Longshoremen's Association.

The record is vague also on the question of whether the employees who were formerly members of International Longshoremen's Association, Local 38-82 have individually transferred their affiliation to the International Longshoremen's & Warehousemen's Union or whether they have transformed their organization into a local of the International Longshoremen's & Warehousemen's Union. Nor does the record indicate the extent of membership in Local 38-82 of the International Longshoremen's Association at the present time.

In view of the fact, therefore, that the evidence in this case is incomplete on the question of appropriate bargaining unit and in view of the fact that the record does not contain sufficient facts to permit the Board to decide upon the status of the contract and its effect upon the question concerning representation, the Board is unable to issue a certification even though the I. L. W. U. has a clear majority of the registered longshoremen in the San Pedro area.

The Board will retain jurisdiction over the case.

ORDER

Pursuant to this Decision, and to an appropriate order, issued today, transferring the proceedings from the Twenty-first Region to the Twentieth Region, consolidating, and directing an investigation and hearing, the National Labor Relations Board hereby remands the proceedings to the Twentieth Region for purposes of further hearing.