

In the Matter of GARDNER-DENVER COMPANY and UNITED STEELWORKERS OF AMERICA, LOCAL UNION No. 3029

Case No. 17-R-674.—Decided October 9, 1943

Mr. Robert G. Bosworth and Mr. Ivan S. Carpenter, of Denver, Colo., for the Company.

Mr. John C. Monarch, of Denver, Colo., for the Union.

Miss Melvern R. Krelow, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by United Steelworkers of America, Local Union No. 3029, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Gardner-Denver Company, Denver, Colorado, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Elmer L. Hunt, Trial Examiner. Said hearing was held at Denver, Colorado, on September 2 and 3, 1943. The Company and the Union appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded opportunity to file briefs with the Board.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Gardner-Denver Company, a Delaware corporation, having its principal office and place of business in Quincy, Illinois, owns and operates plants at Quincy, Illinois, Denver, Colorado, and La Grange, Missouri. This proceeding involves only the Denver plant, where it is engaged in the manufacture, sale, and distribution of rock drills,

tie tempers, concrete or paving breakers, drill sharpeners, hoists, line oilers, ore loaders, drill steel, aircraft parts, and wagon rigs. Practically all of the raw materials purchased by the Company are shipped to the Denver plant from points outside the State of Colorado; and more than 90 percent of the finished products are shipped from the Denver plant to points outside the State of Colorado. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

United Steelworkers of America, Local Union No. 3029 is a labor organization affiliated with the Congress of Industrial Organizations admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On July 1, 1943, the Union notified the Company that it represented a majority of the Company's employees at its Denver plant, and requested a collective bargaining conference. On July 6, 1943, the Company refused the request on the ground that it questioned the Union's majority.

A statement of the Regional Director, introduced in evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found to be appropriate.¹

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

IV. THE APPROPRIATE UNIT

The Union contends that a unit consisting of all production and maintenance workers, including leadmen, assistant foremen, plant clerical employees, floor inspectors, experimental department employees, and watchmen, but excluding foremen and higher ranking supervisors, general office clerks, chemists, metallurgists, research engineers, mechanical engineers, and deputized guards constitute an

¹ The Regional Director reported that the Union presented 407 application authorization cards bearing apparently genuine signatures, 371 of which bear the names of employees whose names appear on the Company's pay roll of July 30, 1943. Of the 371 cards, 277 were dated between May 16 and July 27, 1943, and 94 were undated. There are approximately 560 employees in the unit.

Counsel for the Company argued that the Regional Director's statement had no probative value; that the Regional Director is not subject to cross-examination, and objected to the introduction of that statement in evidence. The Trial Examiner overruled the objection. We have heretofore affirmed the rulings of the Trial Examiner; we find the Company's contentions are without merit. See *Matter of Interlake Iron Corporation*, 38 N. L. R. B. 139; and *Matter of Atlas Powder Company*, 43 N. L. R. B. 757.

appropriate unit. The Company would, however, exclude certain of the foregoing classifications which are discussed below.

Assistant foremen: The Company employs 16 assistant foremen. These employees possess skill and ability of the highest type in the plant; in addition, they are capable of instructing new workers, supervising a department, or a part thereof, as directed by the foreman, assuming full charge and responsibility, including the right to employ and discharge in the foreman's absence. The record indicates that while most of the assistant foremen are paid on an hourly basis, some are on a salary. The amount of time spent in supervisory duties varies from 15 to 50 percent. These employees, at all times, have the authority to recommend hire and discharge. We conclude that assistant foremen are supervisory employees, and we shall exclude them from the unit.

Leadmen: The Company employs approximately 14 leadmen, who have under their jurisdiction from 5 to 15 employees. They are primarily instructors or set-up men. They are not assigned to any particular machine in the department in which they work, but go from one machine to another assisting and instructing the employees. Although the leadmen apparently do not engage in any supervisory duties when the foremen and assistant foremen are present, they do have the authority to recommend changes in employees' status, and in the absence of the foremen and assistant foremen, recommend to their immediate superiors the hire and discharge of their subordinates. These employees are usually promoted to assistant foremen, who in turn are promoted to foremen. We are of the opinion that the leadman's authority to effect changes in the status of employees is sufficient to warrant their exclusion from the unit; we shall exclude them.

Watchmen: The Company employs two watchmen, who guard the plant against fire and unlawful entry, making periodic rounds to inspect the property. They are not armed or deputized. Since their duties appear to be those customarily performed by watchmen, rather than those of a specialized plant-protection force,² we shall include them in the unit.³

Experimental department: This department is composed of six employees, machinists, machine operators, time clerk, foreman, and research engineer. The Union has agreed that the foreman and research engineer should be excluded. This department performs work which is incidental to the development and creation of new devices and prod-

² The parties agree that the doormen and gateman (guards), who are deputized, should be excluded. We shall exclude them.

³ See *Matter of Gluck Brothers, Inc.*, 45 N. L. R. B. 1159; and *Matter of The Brown Paper Mill Company, Inc.*, 45 N. L. R. B. 1227.

ucts. The department is closed off from other departments, is kept locked at night, and only persons who have business connected with the department are admitted. The department is under the jurisdiction of the research engineer, and the employees do not engage in regular production work. We are of the opinion that these employees do not have interests in common with the other production and maintenance employees, and we shall, accordingly, exclude them from the unit.⁴

Plant clerical employees: The clerks are engaged in filling out slips for piece work, checking the employees in and out, and counting the parts delivered to their respective departments. There is one stenographer in the heat treat department. In addition to the foregoing clerical duties, she performs some stenographic work. Although the records prepared by these employees are destined for the use of the main office for purposes of cost control, these employees are assigned to the various production departments, and work under the supervision of the departmental foremen. Since it appears that these employees have interests more in common with the production employees than those in the general office, we shall include them within the unit.⁵

The Company employs a mail boy whose duties consist of taking the mail to and from the post office, and picking up mail in the general office, separating and distributing it to all the departments twice daily. Although for administrative purposes this employee is carried on the tool room department pay roll, he actually works out of the general office and has no interests in common with the production employees. We conclude that he is a general office clerk, and accordingly he will be excluded from the unit as falling within that general category.

Floor inspectors: These employees' duties are, as the title implies, to inspect within the individual departments various products for defective workmanship, flaws, or other defects while in the process of production. Although they mark defective work, they have no disciplinary authority with respect to any employees in the plant, but merely report defects to the foremen. The Company contends that the inspectors may not properly be represented by the Union for the purposes of collective bargaining because they are essentially representatives of management. The Company further argues, in substance, that the inspectors "should be outside the control and domination of the labor organization which governs the workmen whose product these inspectors supervise." We find no merit in these contentions.

⁴ See *Matter of John Deere Harvester Works, etc*, 44 N. L. R. B. 335.

⁵ See *Matter of New York Butchers Dressed Meat Company*, 45 N. L. R. B. 816; *Matter of Brown Company*, 31 N. L. R. B. 303.

Floor inspectors have no voice in determining or shaping the labor policy of the Company, and it is clear that, in the area of labor relations and policy, they do not constitute management in the eyes of rank and file employees, as do truly supervisory employees.⁶ We shall, accordingly, include floor inspectors within the unit.⁷

We find that all production and maintenance employees of the Company at its Denver plant, including floor inspectors, plant clerical employees and watchmen, but excluding mechanical and research engineers, chemists, metallurgists, general office clerks, deputized guards, employees in the experimental department, foremen, and higher ranking supervisors, assistant foremen, leadmen, and all other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, 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

We shall direct that the question concerning representation which has arisen be resolved by an election by secret ballot among the employees in the appropriate unit who were employed during the payroll period immediately preceding the date of our Direction of Election, subject to the limitations and additions set forth therein.⁸

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, and pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 2, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Gardner-Denver

⁶ We have frequently held that inspectors may appropriately be included in the same unit with employees whose work they inspect. See *Matter of Gardner-Denver Company*, 44 N. L. R. B. 1192, in which, by agreement of the parties, inspectors who examined "the various parts of the machinery while they are being produced and while they are on the production line" were included in a production and maintenance unit. See also *Matter of United Wall Paper Factories, Inc.*, 49 N. L. R. B. 1423; *Matter of Aviation, Inc., of Kansas*, 44 N. L. R. B. 1372; *Matter of Union Parts Manufacturing Company Inc.*, 41 N. L. R. B. 1173; *Matter of Pierson Machine Company*, 43 N. L. R. B. 1169.

⁷ The status of Clifford L. Reinbold, who spends part of his time as a floor inspector and part of his time as a central inspection department inspector, was also in dispute. Since we are including floor inspectors as well as central inspection department inspectors regarding whom there was no dispute, Reinbold, who falls within either or both categories, will therefore be included in the unit.

⁸ The Union has waived the right to object to any election ordered herein on the basis of charges filed in Case No. 17-C-1089.

Company, Denver, Colorado, an election by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from the date of this Direction, under the direction and supervision of the Regional Director for the Seventeenth Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Sections 10 and 11, of said Rules and Regulations, among the employees in the unit found appropriate in Section IV, above, who were employed during the pay-roll period immediately preceding the date of this Direction, including employees in the armed forces of the United States who present themselves in person at the polls, but excluding those employees who have since quit or been discharged for cause, to determine whether or not they desire to be represented by United Steelworkers of America, Local Union No. 3029, for the purposes of collective bargaining.