

In the Matter of E. I. DuPONT DE NEMOURS & COMPANY *and* UNITED ASSOCIATION OF JOURNEYMEN PLUMBERS AND STEAM FITTERS OF THE UNITED STATES AND CANADA, LOCAL No. 91

In the Matter of E. I. DuPONT DE NEMOURS & COMPANY *and* INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL No. 136

In the Matter of E. I. DuPONT DE NEMOURS & COMPANY *and* INTERNATIONAL ASSOCIATION OF MACHINISTS, LODGE No. 271

*Cases Nos. 10-R-925, 10-R-971 and 10-R-972 respectively.—
Decided October 13, 1943*

Mr. E. C. First, Jr., of Wilmington, Del., for the Company.

Mr. A. F. Brackett, of Birmingham, Ala., for the Steam Fitters.

Messrs. G. X. Barker and B. F. Reeves, of Birmingham, Ala., for the I. B. E. W.

Mr. J. H. Howard, of Birmingham, Ala., for the I. A. M.

Mr. William R. Cameron, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon petitions severally filed by the United Association of Journeymen Plumbers and Steam Fitters of the United States and Canada, Local No. 91, herein called the Steam Fitters, the International Brotherhood of Electrical Workers, Local No. 136, herein called the I. B. E. W., and International Association of Machinists, Lodge No. 271, herein called the I. A. M., alleging that questions affecting commerce had arisen concerning the representation of employees of E. I. DuPont de Nemours & Company, Childersburg, Alabama, herein called the Company, the National Labor Relations Board provided for an appropriate consolidated hearing upon due notice before Dan M. Byrd, Jr., Trial Examiner. Said hearing was held at Talladega, Alabama, on September 15, 1943. The Company, the Steam Fitters, the I. B. E. W., and the I. A. M., appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine

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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

E. I. DuPont de Nemours & Company is a Delaware corporation, engaged in the manufacture of general chemical products. We are here concerned with its plant at Childersburg, Alabama, where it is engaged in the manufacture of smokeless powder and high explosives under contract with the United States Government. During the last fiscal year, approximately 89.6 percent of the raw materials purchased by the Company was shipped to its plant from points outside the State of Alabama. During the same period, approximately 73 percent of its finished products was shipped to points outside the State of Alabama. The Company concedes that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

United Association of Journeymen Plumbers and Steam Fitters of the United States and Canada, Local No. 91, is a labor organization affiliated with the American Federal of Labor, admitting to membership employees of the Company.

International Brotherhood of Electrical Workers, Local No. 136, is a labor organization affiliated with the American Federal of Labor, admitting to membership employees of the Company.

International Association of Machinists, Lodge No. 271, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTIONS CONCERNING REPRESENTATION

During the latter part of July, and the month of August 1943, the Steam Fitters, the I. B. E. W., and the I. A. M. each by separate letter requested recognition by the Company as exclusive bargaining representative of the Company's employees in a unit composed of members of its respective craft. The Company refused to grant these requests because it did not consider the units requested to be appropriate, and was not willing to deal with bargaining representatives in these units unless certified by the Board.

Statements of the Field Examiner introduced in evidence, and a stipulation entered into by the parties at the hearing, indicate that the Steam Fitters, the I. B. E. W., and the I. A. M. each represents a substantial number of employees in the unit pertaining to its respective craft hereinafter found to be appropriate.¹

We find that questions affecting commerce have 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 UNITS

The Steam Fitters seeks a unit composed of all employees engaged in pipe fitting work, together with their helpers, and all welders who spend 50 percent or more of their time on welding operations in connection with the work of the pipe fitters. The I. B. E. W. seeks a unit composed of all employees engaged in electrical maintenance, and their helpers. The I. A. M. seeks a unit composed of all machinists, millwrights, knife and die mechanics, machinists' helpers, all welders who spend a majority of their time working on welding operations in conjunction with the machinists, and toolroom attendants a majority of whose time is spent in handling the machinists' tools. The Company contends that each of the foregoing units is inappropriate and asserts that the appropriate unit is plant-wide. In support of its contention the Company cites its centralized management of employment and personnel, similarity of wage rates and job classifications throughout the plant, transfers of employees between the various departments, community of interest created by medical, welfare, and safety training programs, and functional interdependence of all the Company's operations.

The Company further contends that it is not practical to attempt to distinguish the employees of the three crafts here involved. The record discloses that these employees, due to the dispersal of the Company's operations over a wide area, are frequently required to perform, at the various locations to which they may be sent, the operations of more

¹ The Field Examiner reported that the Steam Fitters submitted 105 membership application cards, of which 71, dated from February through May 1943, appeared to bear the genuine original signatures of persons whose names are on the Company's pay roll of July 4, 1943, containing the names of 175 persons in the unit claimed by the Steam Fitters to be appropriate.

It was stipulated and agreed by the parties at the hearing that the Company's pay roll for the week ending August 12, 1943, contains the names of approximately 58 persons in the unit claimed to be appropriate by the I. B. E. W., and that the I. B. E. W. represents a substantial number, consisting of approximately 30 percent, of the employees in that unit.

The Field Examiner also reported that the I. A. M. submitted 174 authorization cards, of which 98 appeared to bear the genuine original signatures of persons whose names are on the Company's pay roll of August 12, 1943, containing the names of 241 persons within the unit claimed by the I. A. M. to be appropriate. Of the 98 cards, 6 were undated, and the others were dated in March, April, and September, 1943.

than one craft. It further appears that a number of employees are more or less regularly assigned to a craft operation other than that indicated by their pay-roll listing.² Difficulty in identifying the craft groups is alleged also by reason of the fact that the Company maintains a pool of maintenance helpers, each of whom may be assigned to work with employees at any of the several crafts. The welders employed by the Company likewise are required to perform welding operations in conjunction with the work of each of the several crafts. The record further discloses, however, that work records are maintained by the Company which make it possible to determine at which craft each of the foregoing employees spends the majority of his time. The employees sought to be represented by each of the petitioners in this proceeding constitute a well-recognized craft group such as we have frequently found may constitute a separate bargaining unit. Since there is no history of collective bargaining, either by crafts, or in a wider unit,³ no sufficient reason appears for finding inappropriate the craft units herein sought.

We find that the following groups of the Company's employees in its plant at Childersburg, Alabama, excluding all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute units appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the Act:

- (1) All employees who spend the majority of their time engaged in pipe fitting operations; all maintenance helpers who spend a majority of their time as helpers to pipe fitters; and all welders who spend a majority of their time performing welding operations in conjunction with pipe fitters;
- (2) All electricians, and all maintenance helpers who spend a majority of their time as helpers to electricians;
- (3) All employees who spend the majority of their time working as machinists or millwrights; all knife and die mechanics; all maintenance helpers who spend a majority of their time as helpers to machinists, millwrights, or knife and die mechanics; and all toolroom attendants in toolrooms housing tools used by machinists, millwrights, or knife and die mechanics.

² As an example of this, the record indicates that a number of employees listed on the pay roll as pipe fitters are engaged during most of their time at the work of machinists or millwrights. The converse also appears to be true.

³ A bargaining representative has been certified by the Board for the plant guards. Since, however, it is not the policy of the Board, in any event, to permit militarized plant-protection employees to be represented in a unit together with production or maintenance employees, separate bargaining by such guards has no bearing upon the issue involved in the present proceeding.

It is indicated in the record that organizational activities are being conducted by certain labor organizations among the transportation and production employees, but, as of the time of the hearing, no collective bargaining negotiations had as yet resulted.

V. THE DETERMINATION OF REPRESENTATIVES

At the hearing question arose concerning the eligibility to vote in the election of employees laid off on or about August 17, 1943. The I. A. M. contends that the date of the Company's August 12, 1943, pay roll should be selected as the eligibility date in order that these employees might be eligible to vote. The record discloses that the above-mentioned lay-offs were part of a reduction of force occasioned by a reduction in the amount of orders received from the United States Government. Although it is expected that the employees so laid off will be given first opportunity for reemployment at such time as there is a restoration of force by the Company, it is not known when and if such restoration will take place, and such employees have been given releases to enable them to obtain other employment. Since it appears that there is considerable uncertainty concerning the reemployment of these laid-off employees, we find no reason to depart from the customary eligibility date.

We shall direct that the questions concerning representation which have arisen be resolved by elections by secret ballot among the employees in the appropriate units who were employed during the pay-roll period immediately preceding the date of our Direction of Elections herein, subject to the limitations and additions set forth in the Direction.

DIRECTION OF ELECTIONS

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 E. I. DuPont de Nemours & Company, Childersburg, Alabama, elections 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 Tenth 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 units found appropriate in Section IV, above, who were employed during the pay-roll period immediately preceding the date of this Direction, including employees who did not work during said pay-roll period because they were ill or on vacation or temporarily laid off, and including employees in the armed forces of the United States who present themselves in person at the polls, but excluding any who have since quit or been discharged for cause, to determine (1) whether or not the employees in the pipe

fitters' unit desire to be represented by United Association of Journeymen Plumbers and Steam Fitters of the United States and Canada, Local No. 91, affiliated with the American Federation of Labor, for the purposes of collective bargaining; (2) whether or not the employees in the electricians' unit desire to be represented by International Brotherhood of Electrical Workers, Local No. 136, affiliated with the American Federation of Labor, for the purposes of collective bargaining; and (3) whether or not the employees in the machinists' unit desire to be represented by the International Association of Machinists, Lodge No. 271, affiliated with the American Federation of Labor, for the purposes of collective bargaining.