

In the Matter of D. W. ONAN & SONS and UNITED ELECTRICAL, RADIO &
MACHINE WORKERS OF AMERICA, C. I. O.

Case No. 18-R-822.—Decided October 15, 1943

Mr. R. H. Fryberger, of Minneapolis, Minn., for the Company.

Mr. Douglas Hall, of Minneapolis, Minn., for the United.

Mr. M. F. Darling, of Minneapolis, Minn., for the I. B. E. W.

Mr. Louis Cokin, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by United Electrical, Radio & Machine Workers of America, C. I. O., herein called the United, alleging that a question affecting commerce had arisen concerning the representation of employees of D. W. Onan & Sons, Minneapolis, Minnesota, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Stephen M. Reynolds, Trial Examiner. Said hearing was held at Minneapolis, Minnesota, on September 24, 1943. At the commencement of the hearing the Trial Examiner granted a motion of International Brotherhood of Electrical Workers, A. F. of L., herein called the I. B. E. W., to intervene.¹ The Company and the United appeared at and participated in the hearing and all parties 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:

¹ During the course of the hearing the I. B. E. W. requested leave to withdraw from the case. The request is hereby granted.

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

D. W. Onan & Sons is a limited partnership operating 5 plants at Minneapolis, Minnesota, where it is engaged in the manufacture of electrical power plants and equipment. During 1942 the Company purchased raw materials valued at about \$5,580,000, approximately 60 percent of which was shipped to it from points outside the State of Minnesota. During the same period the Company manufactured products valued at about \$8,525,000, approximately 99 percent of which was shipped to points outside the State of Minnesota. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

United Electrical, Radio & Machine Workers of America is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On September 2, 1943, the United requested recognition of the Company as the exclusive bargaining representative of the Company's employees. The Company refused this request.

A statement of the Regional Director, introduced into evidence at the hearing, indicates that the United represents a substantial number of employees in the unit hereinafter found to be appropriate.²

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 urges that all employees at the five Minneapolis plants of the Company, including inspectors, set-up men, stock clerks, and receiving clerks, but excluding foremen, assistant or subforemen, line supervisors, secretaries to proprietors, managerial employees, heads of departments, first-aid employees, draftsmen, engineers, procurement expeditors, guards, employees of outside building maintenance contractors, outside truck drivers, and confidential employees, constitute an appropriate unit. The only controversy with respect to the

² The Regional Director reported that the United presented 691 membership application cards bearing apparently genuine signatures of persons whose names appear on the Company's pay roll of September 22, 1943. There are approximately 1,708 employees in the appropriate unit.

unit concerns clerical employees and production control employees. The Union requests that all such persons be excluded from the unit and the Company that they be included.

The production control employees perform work essentially clerical in nature, and the Company agrees that they should be treated in the same manner as other clerical employees. Since no affirmative showing has been made nor any compelling arguments advanced as to why we should depart from our usual practice of excluding clerical employees from a unit largely composed of production and maintenance employees, we shall exclude the clerical employees and the production control employees from the unit.

We find that all employees at the five Minneapolis plants of the Company, including inspectors, set-up men, stock clerks, and receiving clerks, but excluding secretaries to proprietors, heads of departments, first-aid employees, draftsmen, engineers, procurement expeditors, guards, employees of outside building maintenance contractors, outside truck drivers, confidential employees,³ clerical employees, production control employees, managerial employees, supervisory employees such as foremen, assistant or subforemen, and line supervisors, and any other supervisory employees with authority to hire, promote, discipline, discharge, 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 means of an election by secret ballot among the employees in the appropriate unit who were employed during the pay-roll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.

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 D. W. Onan &

³ The parties agreed at the hearing that the confidential employees are those occupying the same or similar positions as Donald M. Hanson, W. H. Niles, Avis Stevens, Betty Vanderhagen, Lois Belford, Violet Thomas, Vivian Busse, and Helen Huser.

Sons, Minneapolis, Minnesota, 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 Eighteenth 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 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 whether or not they desire to be represented by United Electrical, Radio & Machine Workers of America, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.