

In the Matter of DORTCH STOVE WORKS, INC., and UNITED STEEL-
WORKERS OF AMERICA, C. I. O.

Case No. 10-R-995.—Decided October 16, 1943

*Mr. George H. Armistead, Jr., of Nashville, Tenn., for the Com-
pany.*

Mr. Lee J. Sorsby, Jr., of Nashville, Tenn., for the Union.

Miss Frances Lopinsky, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Steelworkers of America, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Dortch Stove Works, Inc., Franklin, Tennessee, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Mortimer H. Freeman, Trial Examiner. Said hearing was held at Franklin, Tennessee, on September 24, 1943. The Company and the Union appeared,¹ 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 an 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

Dortch Stove Works, Inc., is a Tennessee corporation engaged in the manufacture of stoves at Franklin, Tennessee. During the past 12 months the Company purchased from points outside the State of

¹ International Molders and Foundry Workers Union of North America, also served with notice, did not appear.

Tennessee raw materials and other unfinished products of a value in excess of \$400,000, for use at its plant at Franklin, Tennessee. During the same period the Company sold and delivered to points outside the State of Tennessee more than \$750,000 worth of its finished products. Twenty-five percent of its products is bought by the Federal Public Housing Administration.

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, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the Union as the exclusive bargaining representative of its employees for the reason that it doubts that the Union represents a majority.

A statement of the Field Examiner, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found 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

In accordance with the stipulation of the parties, we find that all employees engaged at the Company's plant in Franklin, Tennessee, excluding clerical workers, salesmen, checkers, inspectors, foremen and any 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.³

² The Field Examiner reported that the Union submitted 203 application-for-membership cards, 200 of which bore apparently genuine original signatures; that the names of 151 persons appearing on the cards were listed on the Company's pay roll of September 4, 1943, which contained the names of 306 employees in the appropriate unit; that the cards were dated in the months of May, June, July, August, and September, 1943.

³ The parties disagreed as to whether or not this stipulated unit includes the Company's watchmen. The record discloses that the watchmen are unarmed and are "night watchmen" rather than guards. They are not members of the auxiliary military police. We find that they are properly a part of the appropriate unit.

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 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 Dortch Stove Works, Inc., Franklin, Tennessee, 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 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 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 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, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.