

In the Matter of RHEEM MANUFACTURING COMPANY and INTERNATIONAL ASSOCIATION OF MACHINISTS LODGE No. 271, A. F. OF L.

In the Matter of RHEEM MANUFACTURING COMPANY and UNITED STEELWORKERS OF AMERICA, C. I. O.

*Cases Nos. 10-R-982 and 10-R-999 respectively.—Decided  
October 22, 1943*

*Messrs. Robert B. Jones, A. L. Monteith, L. A. Reber and J. C. McCaffrey, of Birmingham, Ala., for the Company.*

*Mr. J. H. Howard and Mr. J. D. Baumgardner, of Birmingham, Ala., for the Machinists.*

*Messrs. R. M. Poarch and Sam Stevens, of Birmingham, Ala., for the Steelworkers.*

*Mr. A. Sumner Lawrence, of counsel to the Board.*

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by International Association of Machinists, Lodge No. 271, A. F. of L., herein called the Machinists,<sup>1</sup> and United Steelworkers of America, C. I. O., herein called the Steelworkers, each alleging that a question affecting commerce had arisen concerning the representation of employees of Rheem Manufacturing Company, Birmingham, Alabama, herein called the Company, the National Labor Relations Board provided for an appropriate consolidated hearing upon due notice before Mortimer H. Freeman, Trial Examiner. Said hearing was held at Birmingham, Alabama, on September 22, 1943. The Company, the Machinists, and the Steelworkers 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

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<sup>1</sup> Although the record and pleadings do not indicate that the Machinists is affiliated with the A. F. of L., on request of the Machinists we take judicial notice of the fact that since the hearing the Machinists has become an A. F. of L. affiliate. The caption in the petition and other formal papers has been corrected in accordance therewith.

from prejudicial error and are hereby affirmed. All parties were afforded the 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

Rheem Manufacturing Company, a California corporation, which in normal times is engaged in the fabrication of steel barrels, automatic water heaters, boilers, pneumatic tanks, and various gas appliances, is at the present time engaged exclusively in the manufacture of shells for the United States Army. The Company operates a number of plants, located in various parts of the United States including a plant at Birmingham, Alabama, the only plant involved in this proceeding. During the past 12 months, the Company's purchases of raw materials for use at its Birmingham plant have exceeded \$1,000,000 in value, of which more than 50 percent has been obtained from points outside the State of Alabama. During the same period, the Company has manufactured and shipped from its Birmingham plant to points outside the State of Alabama, finished products valued in excess of \$3,000,000. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

#### II. THE ORGANIZATIONS INVOLVED

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.

United Steelworkers 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 May 19 and 26, 1943, the Machinists, claiming majority representation, requested that the Company recognize it as the exclusive bargaining representative of its production and maintenance employees, other than forge workers, employed at its Birmingham plant. On August 16, 1943, the Steelworkers made a similar request of the Company. The Company declined to recognize either union unless certified by the Board.

A statement of a Field Examiner for the Board, introduced in evidence at the hearing, indicates that the Machinists and the Steel-

workers represent a substantial number of employees in the unit which each claims to be appropriate.<sup>2</sup>

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 Machinists contends that the appropriate unit should consist of all production and maintenance employees in the Company's plant, excluding clerical employees, engineering and professional employees, maids, janitors; nurses, messengers, guards, foremen, and other supervisory employees with authority to effectively recommend hiring and discharging, and particularly excluding the employees in the forge shop. The Steelworkers and the Company are in general agreement with the proposed unit except as to the exclusion of the forge shop employees whom the Steelworkers and the Company would include within the appropriate unit.

The record reveals that of the 387 employees in the Company's shell plant, 96 are employed in the shell forge shop which is located in the same building as the other shell manufacturing departments; it is also under the supervision of the same superintendent and is governed by the same labor policies. Though transfers are not freely made between departments, all of which are upon a departmental basis with respect to seniority, some transfers, particularly among maintenance employees, occur between the various departments, including the forge shop. The latter department, though under the supervision of a separate foreman, is closely integrated with the other shell manufacturing departments which machine and finish the shell castings produced in the forge shop. The interdependence of these departments clearly appears from the fact that the shell plant could not operate if the forge shop or any of the other shell manufacturing departments were forced to close. In addition, it appears that all departments enjoy substantially the same working conditions. No claim is advanced that the forge shop workers constitute a separate craft, since both unions advocate an industrial unit of production and maintenance employees.<sup>3</sup> Under

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<sup>2</sup> The Field Examiner reported that the Machinists had submitted 179 designations, dated between October 1942 and May 1942, of which 66 bore the apparently genuine original signatures of persons whose names appear on the Company's pay roll of August 25, 1943, containing 139 names within the unit claimed appropriate by the Machinists.

The Field Examiner further reported that the Steelworkers had submitted 171 designations, dated between January and August 1943, of which 90 bore the apparently genuine original signatures of persons whose names appear on the Company's pay roll of August 25, 1943, containing 221 names within the unit claimed appropriate by the Steelworkers.

<sup>3</sup> While the Machinists requests that forge shop employees be excluded from the appropriate unit, it appears from the Field Examiner's report on claims of authorization that the Machinists had obtained authorizations from a number of forge shop employees.

the circumstances, we are of the opinion that a plant-wide unit including the forge shop is appropriate for the purposes of collective bargaining.<sup>4</sup>

We find that all production and maintenance employees of the Company in its plant at Birmingham, Alabama, including forge shop employees, but excluding engineering, professional, and clerical employees, maids, janitors, nurses, messengers, guards, foremen and all supervisory employees who have the 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 pay-roll period immediately preceding 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 Rheem Manufacturing Company, Birmingham, Alabama, 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

<sup>4</sup> See *Matter of Columbus Iron Works Company*, 47 N. L. R. B. 430; *Matter of Westinghouse Electric & Manufacturing Company*, 40 N. L. R. B. 1193.

present themselves in person at the polls, but excluding those who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the election, to determine whether they desire to be represented by International Association of Machinists, Lodge No. 271, A. F. of L., or by United Steelworkers of America, C. I. O., for the purposes of collective bargaining or by neither.