

IN the Matter of HOUSTON BLOW PIPE AND SHEET METAL WORKS and  
INTERNATIONAL BROTHERHOOD OF BOILERMAKERS, IRON SHIPBUILDERS,  
WELDERS AND HELPERS OF AMERICA, LOCALS 74 AND 731

*Case No. 16-R-660.—Decided October 28, 1943*

*Mr. Seymour Lieberman*, of Houston, Tex., for the Company.

*Mr. Jack B. Rogers*, of Houston, Tex., for Local 74.

*Messrs. R. Douglas Fowler* and *M. T. Wilson*, of Houston, Tex., for  
Local 731.

*Miss Frances Lopinsky*, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by International Brotherhood of Boiler-makers, Iron Shipbuilders, Welders and Helpers of America, Locals 74 and 731, herein individually called Local No. 74 and Local No. 731, and collectively called the Unions, alleging that a question affecting commerce had arisen concerning the representation of employees of Houston Blow Pipe and Sheet Metal Works, Houston, Texas, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Robert F. Proctor, Trial Examiner. Said hearing was held at Houston, Texas, on August 31, 1943. The Company and the Unions appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. At the hearing the Company moved that the petition be dismissed because the Unions had not yet reached a decision as to whether they would bargain jointly, separately, or through the Metal Trades Council, of which they are members. There is no conflict between the Unions. As the grounds urged by the Company for dismissal have no bearing on the issues to be decided herein, we overrule the motion to dismiss. 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:

53 N. L. R. B., No. 38.

## FINDINGS OF FACT

## I. THE BUSINESS OF THE COMPANY

Houston Blow Pipe and Sheet Metal Works, a Texas corporation, is engaged in the manufacture and fabrication of sheet metal products at its plant in Houston, Texas. During the year 1942 practically all purchases of materials by the Company were made from persons or companies within the State of Texas. During the same period the total sales of finished products of the Company were in excess of \$175,000; of which 62.88-percent represented sales to customers within the State of Texas and 37.12 percent to customers outside the State of Texas. One hundred percent of the Company's products are used by the United States Navy and the United States Merchant Marine.

We find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.

## II. THE ORGANIZATIONS INVOLVED

International Brotherhood of Boilermakers, Iron Shipbuilders, Welders and Helpers of America, Local 74, and International Brotherhood of Boilermakers, Iron Shipbuilders, Welders and Helpers of America, Local 731, are labor organizations affiliated with the American Federation of Labor, admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

The Unions alleged in their petition that on March 1, 1943, a representative of the Unions requested recognition by the Company as sole collective bargaining representative of the Company's employees, and that it was denied. The Company insists that no such request was made on March 1, 1943, or at any time. The evidence on the question is contradictory insofar as it concerns Union 74 and the Unions admit that no demand was ever made on behalf of Local 731. Since, however, it became clear at the hearing that the Unions demand recognition and the Company refuses to accord it, it is immaterial whether or not the question actually arose prior thereto.<sup>1</sup>

The Union submitted to agents of the Board cards which indicate that the Unions represent a substantial number of the Company's employees.<sup>2</sup>

<sup>1</sup> See *Matter of Lennox Furnace Company*, 50 N. L. R. B. 80, and cases cited therein.

<sup>2</sup> Prior to the hearing, the Unions submitted to the Field Examiner 22 authorization cards, 20 of which bore apparently genuine original signatures corresponding with names listed on the Company's pay roll of July 27, 1943, containing 73 names of persons in the unit hereinafter found appropriate. Subsequent to the hearing the Board was advised by

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

#### IV. THE APPROPRIATE UNIT

We find, in substantial accordance with the agreement of the parties, that all production and maintenance employees of the Company, excluding the manager, office and clerical employees, safety men, watchmen, department heads, 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 pay-roll period immediately preceding the date of this 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 Houston Blow Pipe and Sheet Metal Works, Houston, Texas, 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 Sixteenth 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

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the Regional Director for the Sixteenth Region that the Unions had submitted to him four additional cards,

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 and have not been rehired or reinstated prior to the date of the election, to determine whether or not they desire to be represented by International Brotherhood of Boilermakers, Iron Shipbuilders, Welders and Helpers of America, Locals 74 and 731, affiliated with the American Federation of Labor, for the purposes of collective bargaining.