

In the Matter of THE DUPLEX PRINTING PRESS COMPANY and LOCAL 388, INTERNATIONAL UNION, UNITED AUTOMOBILE, AIRCRAFT & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, C. I. O.

Case No. 7-R-1516.—Decided November 8, 1943

Mr. Billie S. Farnum, of Pontiac, Mich., for the UAW-CIO.

Mr. E. N. Jarvis, of Battle Creek, Mich., for Local 698.

Mr. Louis Cokin, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by Local 388, International Union, United Automobile, Aircraft & Agricultural Implement Workers of America, C. I. O., herein called the UAW-CIO, alleging that a question affecting commerce had arisen concerning the representation of employees of The Duplex Printing Press Company, Battle Creek, Michigan, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Robert J. Wiener, Trial Examiner. Said hearing was held at Battle Creek, Michigan, on October 13, 1943. At the commencement of the hearing the Trial Examiner granted a motion of Local 698, Hotel and Restaurant Employees International Alliance and Bartenders' International League of America, A. F. of L., herein called Local 698, to intervene. The UAW-CIO and Local 698 appeared at and participated in the hearing.¹ 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:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

The Duplex Printing Press Company is a Michigan corporation with its principal place of business at Battle Creek, Michigan, where

¹ Although the Company was served with notice of hearing it did not appear.

it is engaged in the manufacture of military material. During 1942 the Company purchased raw materials valued at about \$4,700,000, approximately 75 percent of which was shipped to it from points outside the State of Michigan. During the same period the Company sold products valued at about \$15,000,000, 95 percent of which was sold to the United States Government. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

Local 388, International Union, United Automobile, Aircraft & Agricultural Implement Workers of America, is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

Local 698, Hotel and Restaurant Employees International Alliance and Bartenders' International League of America, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On or about June 23, 1943, the UAW-CIO requested the Company to recognize it as the exclusive collective bargaining representative of the cafeteria employees. The Company refused this request.

On March 1, 1943, the Company and Local 698 entered into a "union house or bar card contract." Local 698 contends that the agreement constitutes a bar to a determination of representatives. The agreement provides that the Company is entitled to the privilege of keeping the said contract posted in its cafeteria and further that the Company shall employ only members in good standing of Local 698 after March 1, 1943. The agreement does not contain any substantive provisions with respect to wages, hours, or working conditions. The agreement may be withdrawn from the Company at any time by Local 698. Thus the Company and Local 698 have never entered into any written signed agreement, binding upon them for a fixed term, covering working conditions of the employees at the cafeteria. A recognition agreement alone does not achieve stability in labor relations.² We, therefore, conclude that, in the absence of a contract for a fixed term containing substantive conditions, a mere agreement for recognition, accompanied only by a preferential shop provision, does not operate as a bar to an investigation and determination of representatives.³

² See *Matter of Henry Weis Mfg. Co.*, 49 N. L. R. B. 511.

³ See *Matter of Corn Products Refining Company*, 52 N. L. R. B. 1324.

A statement of the Regional Director, introduced into evidence at the hearing, indicates that the UAW-CIO represents a substantial number of employees in the unit hereinafter found to be appropriate.⁴

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 UAW-CIO and Local 698 urge that all cafeteria employees of the Company, excluding supervisory employees, constitute an appropriate unit. The record indicates that the unit claimed by the labor organizations constitutes a well-defined homogeneous group.

We find that all cafeteria employees of the Company, 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 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 The Duplex Printing Press Company, Battle Creek, Michigan, 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

⁴The Regional Director reported that the UAW-CIO presented 8 authorization cards bearing apparently genuine signatures of persons whose names appear on the Company's pay roll of August 4, 1943, which contains the names of 11 persons. Local 698 did not present any evidence of representation, but relies upon its agreement as evidence of its interest in the instant proceeding.

supervision of the Regional Director for the Seventh 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 and have not been rehired or reinstated prior to the date of the election, to determine whether they desire to be represented by Local 388, International Union, United Automobile, Aircraft & Agricultural Implement Workers of America, affiliated with the Congress of Industrial Organizations, or by Local 698, Hotel and Restaurant Employees International Alliance and Bartenders' International League of America, affiliated with the American Federation of Labor, for the purposes of collective bargaining, or by neither.

MR. GERARD D. REILLY took no part in the consideration of the above Decision and Direction of Election.