

In the Matter of HUGHES TOOL COMPANY (DICKSON GUN PLANT)
and UNITED STEELWORKERS OF AMERICA, LOCALS NOS. 1742 AND
2457, CIO

Case No. 16-R-670.—Decided November 11, 1943

Mr. W. M. Streetman, of Houston, Tex., for the Company.

Mr. Arthur J. Mandell, of Houston, Tex., for the CIO.

Mr. Cyril J. Smith, of Houston, Tex., for the Independent.

Miss Olive N. Barton, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by United Steelworkers of America, Locals Nos. 1742 and 2457, affiliated with the Congress of Industrial Organizations, herein called the CIO, alleging that a question affecting commerce had arisen concerning the representation of employees of Hughes Tool Company (Dickson Gun Plant), Houston, Texas, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Bliss Daffan, Trial Examiner. Said hearing was held at Houston, Texas, on October 8, 1943. The Company, the CIO, and Independent Metal Workers Union, Locals Nos. 1 and 2, herein called the Independent, 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 Trial Examiner reserved ruling upon a motion by the CIO for certification on the record as the collective bargaining agency for the employees in the unit alleged by it to be appropriate. The motion is hereby denied. 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. 98.

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

The Dickson Gun Plant, located near Houston, Texas, is a government-owned plant operated by the Hughes Tool Company, a Delaware corporation with its principal office at Houston, Texas. It makes gun tubes for the United States Ordnance Department. The raw bar steel and certain alloys used are shipped to the plant from points outside the State of Texas. The finished products in the shape of gun tubes are shipped upon the order of the United States Ordnance Department throughout the United States.

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

II. THE ORGANIZATIONS INVOLVED

The United Steelworkers of America, Locals Nos. 1742 and 2457, affiliated with the Congress of Industrial Organizations and the Independent Metal Workers Union, Locals Nos. 1 and 2, are labor organizations admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

Prior to June 29, 1943, and the filing of the petition in this proceeding, the CIO requested recognition by the Company as the exclusive bargaining representative of certain of the Company's employees at the Dickson Gun Plant. The Company refused to accord such recognition unless and until the CIO is certified by the Board.

A statement of the Field Examiner, introduced in evidence at the hearing, indicates that the CIO and the Independent represent a substantial number of employees within the unit herein found appropriate.¹

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.

¹The Field Examiner reported that the CIO submitted 637 application for membership cards of which 4 are duplicates. Of the signatures, 598 are apparently genuine original signatures, and 35 are only lettered signatures; 421 of the 598 signatures correspond with names on the Company's pay roll of August 2, 1943, at its Dickson Plant, which pay roll contains the names of about 1,500 persons in the alleged appropriate unit. Twenty-nine cards are undated; one is dated in May 1937; and the others are dated between January 1941 and September 1943.

The Independent submitted an affidavit signed by the respective presidents of Locals Nos 1 and 2, alleging that the Independent has 127 members at the Company's Dickson Gun Plant. The record indicates that both labor organizations are presently enrolling additional members at the Dickson Gun Plant.

IV. THE APPROPRIATE UNIT

On December 26, 1942, the CIO was certified² as the representative of the Company's employees at its main plant in Houston, Texas, and its Aircraft Strut Division, which is about 6 miles outside of Houston. The CIO and the Company are parties to a contract, in effect until April 6, 1944, covering the employees in the said two-plant unit. In the present proceedings the CIO seeks an election among the employees at the Company's Dickson Gun Plant, which is located in the Houston area, about 6 miles from each of the other two plants. In the alternative, as noted above, the CIO has moved for certification on the record, as the bargaining representative of the Dickson Gun Plant employees, on the theory that such employees constitute an accretion to the unit which it already represents by virtue of the Board's recent determination and certification. Since our prior determination of representatives affected only the employees at the main plant and the Aircraft Strut Division, we have denied this motion. The Company and the Independent contend that only a three-plant unit is appropriate and that no election should be directed at the present time except an election covering the employees in all three plants.

The Dickson Gun Plant is an independent operation, geographically separate from the Company's other two plants in the Houston area, and having separate supervision. Although the Dickson Gun Plant was originally manned, to a substantial extent, by the transfer of employees from the other plants, and at the present time employees are not infrequently transferred among the plants, each has a separate pay roll and each has its own personnel manager. Each produces a different product.

It is apparent that collective bargaining can feasibly be conducted for the Dickson Gun Plant employees in a separate unit. We shall, accordingly, direct an election among such employees forthwith. On the other hand, all parties appear to agree that the optimum unit comprises the employees in all three plants, and we see no reason why they should not be combined in a single unit in the event that the same labor organization is duly designated as the representative of the employees in both the existing two-plant unit and the third plant involved herein. Accordingly, if the CIO is certified as the representative of the Dickson Gun Plant employees as the result of the election hereinafter directed, and the Company objects to merging the employees of all three plants into a single unit for the purposes of collective bargaining, we will entertain a motion to consolidate the

² *Matter of Hughes Tool Company*, 45 N. L. R. B. 821, certification issued December 26, 1942.

certifications previously issued and to combine all three plants of the Company in a single appropriate unit.³

The parties stipulated as to the composition of an appropriate unit of employees at the Dickson Gun Plant. In conformity therewith, and in accordance with our usual policy respecting supervisory employees, we find that all production and maintenance employees at the Dickson Gun Plant located in Harris County, Texas, including janitors and janitresses, shipping department employees, shop clerks, machinists, mechanics, helpers and laborers attached to the engineering department, truck drivers in the maintenance department, office porters, cafeteria employees, garage employees; but excluding executives, clerical, office and professional employees, printing shop employees, personnel department employees, sales department employees other than those employed in the shipping department, accounting department employees other than shop clerks, parking lot girls, production department employees and engineers and draftsmen, chemists, metallurgists, clerical employees of the engineering department and any 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 payroll 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 Hughes Tool Company (Dickson Gun Plant), Houston, Texas, an election by secret ballot shall be conducted as early as possible, but not later than

³ *Matter of Chrysler Corporation*, 37 N. L. R. B. 877; *Matter of Chrysler Corporation*, 42 N. L. R. B. 1145

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 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 they desire to be represented by United Steelworkers of America, Locals Nos. 1742 and 2457, affiliated with the Congress of Industrial Organizations, or by Independent Metal Workers Union, Locals Nos. 1 and 2, for the purposes of collective bargaining, or by neither.