

In the Matter of ALUMINUM COMPANY OF AMERICA, VANCOUVER, WASHINGTON, and ALUMINUM WORKERS OF AMERICA, AFFILIATED WITH THE C. I. O.:

Case No. 19-R-1158.—Decided November 13, 1943

Mr. Charles A. Hart, of Portland, Oreg., and *Mr. Joseph E. Holt*, of Vancouver, Wash., for the Company.

Mr. A. F. Hartung, of Portland, Oreg., and *Mr. John Glenn*, of Troutdale, Oreg., for the C. I. O.

Mr. Edwin D. Hicks, of Portland, Oreg., for the A. F. of L.

Mrs. Augusta Spaulding, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

Upon petition duly filed by Aluminum Workers of America, affiliated with the Congress of Industrial Organizations, herein called the C. I. O., alleging that a question affecting commerce had arisen concerning the representation of employees of Aluminum Company of America, Vancouver, Washington, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Joseph D. Holmes, Trial Examiner. Said hearing was held at Portland, Oregon, on October 6, 1943. The Company, the C. I. O., and Aluminum Trades Council of Vancouver, Washington, affiliated with the American Federation of Labor, herein called the A. F. of L., appeared and participated.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.

¹ United Brotherhood of Welders, Cutters and Helpers of America, Local Union No. 3, also served with notice, did not appear at the hearing.

Upon the entire record in the case, the Board makes the following.

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Aluminum Company of America is engaged in the business of manufacturing virgin pig and ingot aluminum at Vancouver, Washington. Its plant at Vancouver is the only plant of the Company directly involved in this proceeding. Raw materials used at the plant annually exceed 200,000,000 pounds in tonnage, substantially all of which is brought to the plant from points outside Washington. Products finished at the plant annually exceed 200,000,000 pounds in tonnage, of which more than two-thirds is sent to finishing plants outside Washington.

The Company admits that it is engaged in commerce, within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

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

Aluminum Trades Council of Vancouver, Washington, is a labor organization affiliated with the American Federation of Labor. Aluminum Workers' Union, Local 22422, affiliated with the Council, admits to membership employees of the Company.

III. THE ALLEGED QUESTION CONCERNING REPRESENTATION

On June 24 and 25, 1943, representatives of the C. I. O. wrote letters to the Company, alleging that the C. I. O. represented a majority of the Company's employees at its Vancouver plant and requested bargaining conferences. On June 28, the Company notified the C. I. O. that the A. F. of L. was the certified bargaining representative of these employees and that the Company could not recognize the C. I. O. without the certification of the Board. On June 29, the C. I. O. filed the petition in this proceeding.

On December 3, 1941, the Company recognized the A. F. of L. as the exclusive bargaining representative of production and maintenance employees at the Vancouver plant and entered into a collective bargaining contract with the A. F. of L. on their behalf. The contract provided that it remain in full force and effect until June 1, 1942, and thereafter from year to year unless either party gave 60 days' written notice of a desire for its revision. On March 25, 1942, pursuant to the terms of the contract, the A. F. of L. notified the

Company by letter than the A. F. of L. desired a revision of the contract. Within a week or two, discussions began between representatives of the contracting parties with respect to changes proposed in their relations by the A. F. of L. Frequent discussions continued until June 12, 1942.

In April 1942, the C. I. O. claimed to represent a majority of the Company's employees and filed a petition for investigation and determination of representatives with the Board. On October 13, 1942, the Board issued a Decision, Direction of Election, and Order,² directing that an election be conducted among the Company's employees to determine whether they desired to be represented by the A. F. of L., or by the C. I. O., or by neither. The A. F. of L. won the election, and on November 30, 1942, the Board certified the A. F. of L. as the exclusive bargaining representative of employees concerned.³

On January 12, 1943, representatives of the Company and the A. F. of L. conferred with respect to a new contract proposed by the A. F. of L. The proposed contract contained a closed-shop provision, included radical changes in grievance and arbitration procedure, and provided for premium payments for other than day-shift workers. The proposed contract was forwarded to the Company's principal office at Pittsburgh for discussion. On April 13, 1943, a further discussion of the proposed contract was held at the plant. On this occasion, representatives of the Company and the A. F. of L. conferred with representatives of the United States Conciliation Service. No accord was reached between the Company and the A. F. of L. The issues were then submitted to the National War Labor Board. A hearing on the issues was held by the National War Labor Board on June 17, 1943. On September 10, 1943, representatives of the Company and the A. F. of L. met to consider possible solutions which might be recommended for their differences. At the time of the hearing in the instant proceeding, no decision had been rendered by the National War Labor Board.

In view of all the circumstances, we are of the opinion that it will not effectuate the policies of the Act to order an election among the Company's employees at the Vancouver plant at this time.⁴ The cer-

² 44 N. L. R. B. 1111.

³ The A. F. of L. was certified as the exclusive bargaining representative of all production and maintenance employees and equipment mechanics at the Vancouver plant, excluding building construction workers, supervisory, technical, laboratory, office, clerical, police, fire protection, janitor, and custodial employees, and watchmen. The A. F. of L. and the C. I. O. agree that these employees constitute an appropriate bargaining unit.

⁴ The A. F. of L. contends that the contract of December 3, 1941, constitutes a bar to an immediate election. We do not agree. We rejected a similar contention in the prior representation proceeding, cited in footnote 2 above. It is clear that the Company continued to handle grievances according to the forms of procedure set forth in this contract. A representative of the Company, however, testified that this procedure was standard procedure adopted by the Company for grievance matters in all its plants.

tification of the A. F. of L. issued by the Board on November 30, 1942, is less than a year old. Collective bargaining negotiations were promptly begun in January 1943. Through no fault of the parties, a contract has not yet been effected. An election conducted at the present time might serve to negate the proceedings of the National War Labor Board, require further proceedings before that Board, and create uncertainty and unsettled bargaining conditions at the plant for an additional indeterminate period.⁵

As we said in a recent decision,⁶ "It is undesirable to penalize a statutory representative for unavoidable delays consequent upon its voluntary acceptance of orderly procedures established by governmental authority for the adjustment of differences with an employer." There is nothing in the record to indicate that the A. F. of L. has not employed due diligence in effecting a contract covering the employees whom it represents. Upon the entire record, therefore, we find that the prior certification of the A. F. of L. and the existing state of negotiations between the A. F. of L. and the Company operate as a bar to a determination of representatives of the Company's maintenance and production employees at the Vancouver plant. We shall accordingly dismiss the petition filed herein.

ORDER

Upon the basis of the foregoing findings of fact, and upon the entire record of the case, the National Labor Relations Board hereby orders that the petition for investigation and certification of representatives of employees of Aluminum Company of America, Vancouver, Washington, filed by Aluminum Workers of America, affiliated with the C. I. O., be, and it hereby is, dismissed.

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

⁵ The C. I. O. submitted to the Regional Director 321 cards bearing the apparently genuine signatures of employees on the Company's pay roll of August 18, 1943. At the hearing the petitioner presented to the Trial Examiner 54 additional authorization cards, bearing the names of employees on the pay roll of October 2, 1943. There are approximately 700 employees in the appropriate unit. Assuming that all these cards are genuine authorizations of employees of the Company, the showing made by the C. I. O. does not indicate that there has been so substantial a shift in union affiliation among the Company's employees as to impel us, under the circumstances set forth above, to hold an election at this time.

At the close of the hearing, the C. I. O. and the A. F. of L. each submitted certain evidence of representation to the Trial Examiner. The parties stipulated that a Field Examiner should investigate the evidence thus submitted, and prepare a statement of his findings, which should become part of the record in this proceeding. The statement was thus made and duly served upon the parties. In accordance with this stipulation, the statement is hereby made, and is, part of the official record in this proceeding.

⁶ *Matter of Kennecott Copper Corporation*, 51 N. L. R. B. 1140; cf. *Matter of Allis-Chalmers Manufacturing Company*, 50 N. L. R. B. 306.