

In the Matter of NEBRASKA DEFENSE CORPORATION and UNITED RUBBER
WORKERS OF AMERICA, CIO

Case No. 17-R-719.—Decided November 22, 1943

Messrs. T. S. Markey and J. A. Meek, of Fremont, Nebr., for the
Company.

Mr. George Burdon, of Mead, Nebr., for the Union.

Mr. Louis Cokin, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by United Rubber Workers of America, C. I. O., herein called the United, alleging that a question affecting commerce had arisen concerning the representation of employees of Nebraska Defense Corporation, Fremont, Nebraska, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before John A. Weiss, Trial Examiner. Said hearing was held at Omaha, Nebraska, on November 2, 1943. The Company and the Union 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 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

Nebraska Defense Corporation is a Nebraska corporation with its principal place of business at Mead, Nebraska, where it is engaged in the manufacture of munitions for the United States Government. During 1943 thus far the Company used raw materials valued in excess of \$500,000, over 75 percent of which was shipped to it from

points outside the State of Nebraska. During the same period the Company furnished products valued in excess of \$500,000, over 90 percent of which was shipped to points outside the State of Nebraska. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

United Rubber Workers 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 August 12, 1943, the Union requested the Company to recognize it as exclusive collective bargaining representative of the Company's plant-protection employees. The Company refused this request.

A statement of a Field Examiner of the Board, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found to be 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.

IV. THE APPROPRIATE UNIT

The Union contends that all plant-protection employees of the Company, including guards and matrons, but excluding fire fighters and supervisory employees, constitute an appropriate unit. The Company contends that plant-protection employees do not constitute an appropriate unit because they are agents of the management and responsible to the United States War Department.

The Company employs about 200 guards and matrons. The Guards and matrons are uniformed and in addition the guards are armed and sworn as United States auxiliary military police. The United States Army has formulated certain employment standards applicable to these employees. Nevertheless these employees are hired, discharged, and paid by the Company, and in all essential respects the customary employer-employee relationship is preserved. In view of these facts, and for the reasons stated in the *Dravo* case, we find no merit in the Company's contention.²

¹ The Field Examiner reported that the Union presented 79 membership-application cards bearing apparently genuine signatures of persons whose names appear on the Company's pay roll of September 12, 1943. There are approximately 223 employees in the appropriate unit.

² 52 N. L. R. B. 322.

We find that all plant-protection employees of the Company, including guards and matrons, but excluding fire fighters, sergeants, 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 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 Nebraska Defense Corporation, Fremont, Nebraska, 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 Seventeenth 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 who have not been rehired or reinstated prior to the date of the election, to determine whether or not they desire to be represented by United Rubber Workers of America, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.