

In the Matter of ELGIN NATIONAL WATCH COMPANY and DISTRICT 108,
INTERNATIONAL ASSOCIATION OF MACHINISTS, A. F. OF L.

Case No. 13-R-1967.—Decided November 23, 1943

Mr. Erwin W. Roemer, of Chicago, Ill., for the Company.

Mr. H. T. Elder, of Elwood Park, Ill., and *Mr. Lee J. Fitzpatrick*, of Aurora, Ill., for the I. A. M.

Mr. George D. Garbary, of Elgin, Ill., for the Association.

Mr. William R. Cameron, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by District 108, International Association of Machinists, A. F. of L., herein called the I. A. M., alleging that a question affecting commerce had arisen concerning the representation of employees of Elgin National Watch Company, Elgin, Illinois, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Robert R. Rissman, Trial Examiner. Said hearing was held at Elgin, Illinois, on October 25, 1943. The Company, the I. A. M., and Elgin National Watch Company Employees' Association, herein called the Association, 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

Elgin National Watch Company is an Illinois corporation having its principal office and place of business at Elgin, Illinois. The Company's Plant No. 1 is located at Elgin, Illinois, where it is engaged in

the manufacture of complete watches and time-recording devices. The Company also maintains and operates Plant No. 2 in Elgin, Illinois, where it is engaged in the manufacture of mechanical time devices. The Company's Plant No. 3 is located in Aurora, Illinois, where it is engaged in the manufacture of jewels for time devices. During the year 1942 the Company purchased raw materials, consisting principally of brass, steel, jewels, and miscellaneous parts and supplies, used at its Plant No. 1, amounting in value to approximately \$3,000,000, of which approximately 90 percent was obtained from points outside the State of Illinois. During the same period the total value of finished products produced by the Company at Plant No. 1 was approximately \$12,000,000, of which approximately 68 percent was shipped to points outside the State of Illinois. The Company concedes that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

District 108, International Association of Machinists, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

Elgin National Watch Company Employees' Association is an unaffiliated labor organization, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The I. A. M., by letter of July 26, 1943, notified the Company that it claimed to represent a majority of the Company's employees in the machine department, and requested a collective bargaining conference. The Company, by letter of July 30, 1943, declined to recognize the I. A. M. on the ground that it had a contract with the Association.

On December 7, 1937, the Association entered into a contract in writing with the Company with provision that it should continue in effect until August 1, 1938, and from year to year thereafter, unless terminated by either party in accordance with certain procedure, including the giving of 90 days' notice in writing. This was a "members-only" contract. This contract was subsequently amended, in writing, on December 1, 1938, on August 15, 1940, and on January 26, 1943. These amendments relate solely to seniority provisions and to grievance procedure. The Company and the Association contend that this contract, as amended, is a bar to an election to determine representatives. Inasmuch as the contract has, however, been in effect for approximately 6 years, is by its terms specifically limited to representation of

members of the Association,¹ and is terminable by either party upon 90 days' notice,² we find that it is not a bar to a determination of representatives.

A statement of the Regional Director, introduced in evidence at the hearing, indicates that the I. A. M. and the Association each represents a substantial number of employees in the unit hereinafter found to be appropriate.³

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 I. A. M. seeks a unit composed of the employees of the Company's machine department in Plant No. 1. The Company and the Association assert that the unit sought by the I. A. M. is not an appropriate one. They contend that the appropriate unit comprises the production and maintenance employees on a company-wide basis, this contention being based upon the history of collective bargaining, and the integrated nature of the Company's operations.

The Association has, since 1937, acted as the collective bargaining representative for its members who were employees in the Company's Plant No. 1 on a plant-wide basis. Subsequent to the commencement of operations at Plant No. 2 in June 1941, and at Plant No. 3 in February 1942, the Company verbally extended recognition to the Association as the bargaining representative in these plants, and the employees therein were by mutual understanding included in applying the provisions of the existing contract covering Plant No. 1. While we have frequently held the history of collective bargaining to be a significant factor in determination of the appropriate unit, it is not, however, necessarily conclusive, especially where such history is based on a membership-only contract. The record discloses that the Company's three plants are engaged in the production of different, though

¹ See *Matter of Continental Can Company, Inc.*, 52 N. L. R. B. 710; *Matter of Buffalo Arms Corporation*, 46 N. L. R. B. 1176; *Matter of Pressed Steel Car Company, Inc.*, 46 N. L. R. B. 262; *Matter of Tennessee Coal, Iron & Railroad Co., Holt Blast Furnace*, 39 N. L. R. B. 402.

² See *Matter of Carrier Corporation*, 46 N. L. R. B. 1319; *Matter of Allegheny Ludlum Steel Corporation*, 40 N. L. R. B. 1285; *Matter of Phelps Dodge Refining Corporation*, 40 N. L. R. B. 1159; *Matter of Chevrolet Kansas City Division, General Motors Corporation*, 32 N. L. R. B. 249.

³ The Regional Director reported that the I. A. M. submitted 121 authorization cards, of which 113 appeared to bear the genuine original signatures of persons whose names are on the Company's pay roll of August 24, 1943, containing the names of 226 persons within the unit claimed by the I. A. M. to be appropriate. Of the 113 cards, 69 were undated, 1 was dated in April, 32 in May, and 11 in July 1943.

The Regional Director further reported that the Association submitted 109 dues-payment envelopes for payment of dues from April 1 to September 30, 1943, of which 106 appeared to bear the genuine original signatures of persons whose names are on the above-mentioned pay roll within the said unit.

related, products. Plant No. 3 is situated approximately 23 miles from the other two plants. There are small machine departments in each of Plants Nos. 2 and 3. These, however, are under separate supervision from that of Plant No. 1, which, although its several sections are located at various points in four of the Company's buildings, is nevertheless, under the supervision of a single foreman. The function of the machine department is the manufacture and maintenance of machinery and tools used by the Company in its production processes. The operations of this department are as a whole highly skilled. While many of the Company's production operations likewise involve a high degree of skill, those of this department are, in general, quite different from those incidental to the Company's production processes. The employee classifications in this department are well-defined crafts, such as we have frequently held to constitute a craft unit or units. In view of all the circumstances, we are of opinion that the employees of the machine department in Plant No. 1 may appropriately constitute a unit separate and apart from the Company's other production and maintenance employees.

We find that all employees of the machine department in Plant No. 1 of the Company at Elgin, Illinois, including tool crib attendants, but excluding clerks, errand boys, foremen, job masters, 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 payroll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.⁴

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

⁴The I. A. M. requested that its name appear on the ballot as "International Association of Machinists, affiliated with the American Federation of Labor, District 108, Aurora and vicinity." The Association stated that it did not desire its name to appear on the ballot in the event of an election among the employees in the unit sought by the I. A. M. in this proceeding. These requests are hereby granted.

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Elgin National Watch Company, Elgin, Illinois, 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 Thirteenth 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 or not they desire to be represented by International Association of Machinists, affiliated with the American Federation of Labor, District 108, Aurora and vicinity, for the purposes of collective bargaining.