

In the Matter of WHITLEY PRODUCTS, INC and UNITED CONSTRUCTION WORKERS, UNITED MINE WORKERS OF AMERICA, LOCAL 182

Case No. 13-R-2069.—Decided November 25, 1943

Fyffe & Clarke, by *Mr. John Harrington*, of Chicago, Ill., for the Company.

Mr. W. M. Brock and *Mr. Robert K. Moog*, of Columbia City, Ind., and *Mr. Frank Barnhart*, of Hammond, Ind., 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 States Construction Workers, United Mine Workers of America, Local 182, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Whitley Products, Inc., Columbia City, Indiana, 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 Chicago, Illinois, on November 5, 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

Whitley Products, Inc., is an Indiana corporation engaged in the manufacture of airplane motor parts at Columbia City, Indiana. During the 6-month period preceding October 31, 1943, the Company

purchased raw materials for use at its Columbia City plant valued in excess of \$40,000, about 10 percent of which was shipped to it from points outside the State of Indiana. During the same period the Company manufactured products at its Columbia City plant valued in excess of \$40,000, about 10 percent of which was shipped to points outside the State of Indiana. The Company admits that, in the operation of its Columbia City plant, it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

United Construction Workers, United Mine Workers of America, Local 182, is a labor organization, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On September 22, 1943, the Union requested the Company to recognize it as the exclusive collective bargaining representative of the employees at the Columbia City plant. The Company did not reply to the request.

A statement of the Regional Director, 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 urges that all production and maintenance employees at Columbia City plant of the Company, excluding office and clerical employees, supervisory employees, administrative employees, guards, and watchmen, constitute an appropriate unit. The Company contends that such employees at its Columbia City and Pierceton plants constitute a single appropriate unit.

The Company's principal place of business is at Columbia City, Indiana. In addition it operates a plant at Pierceton, Indiana, which is between 12 and 17 miles from Columbia, Indiana. Each of the plants is supervised directly by a resident manager. The Union has organized only the employees at the Columbia City plant and there is no indication that the employees at the Pierceton plant desire collec-

¹ The Regional Director reported that the Union presented 39 membership application cards bearing apparently genuine signatures of persons whose names appear on the Company's pay roll of October 23, 1943. There are 66 employees in the appropriate unit.

tive bargaining at this time. It further appears that the Pierceton plant has not yet hired 50 percent of its total contemplated personnel. There has been no history of collective bargaining on a plant- or employer-wide basis. In view of the lack of organization beyond the Columbia City plant and the absence of any bargaining history, we conclude that a unit limited to the Columbia City plant is appropriate at this time.

We find that all production and maintenance employees at the Columbia City plant of the Company, excluding office and clerical employees, administrative employees, guards, watchmen, and all supervisory employees who have 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 find that the question concerning representation which has arisen can best be resolved by means of an election by secret ballot. The Union urges that the pay roll of September 26, 1943, be used to determine eligibility to vote. Inasmuch as no persuasive reason appears as to why we should depart from our usual practice, we shall direct that those eligible to vote shall be 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 Whitley Products Inc., Columbia City, Indiana, 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 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 Construction Workers, United Mine Workers of America, Local 182, for the purposes of collective bargaining.