

In the Matter of OHIO SEAMLESS TUBE COMPANY and UNITED STEEL-
WORKERS OF AMERICA, C. I. O.

Case No. 8-R-1304.—Decided November 29, 1943

Stanley & Smoyer, by *Mr. W. K. Stanley* and *Mr. Eugene B. Schwartz*, of Cleveland, Ohio, for the Company.

Mr. Jacob Clayman, of Columbus, Ohio, 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 Steelworkers of America, C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Ohio Seamless Tube Company, Shelby, Ohio, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before William O. Murdock, Trial Examiner. Said hearing was held at Cleveland, Ohio, on November 6, 1943. The Company and the Union appeared at and participated in the hearing.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.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Ohio Seamless Tube Company is an Ohio corporation with its principal place of business at Shelby, Ohio, where it is engaged in the manufacture of seamless and welded steel tubings. During 1943 the Company will use raw materials valued in excess of \$1,000,000, about 10 percent of which was or will be shipped to it from points outside the State of Ohio. During the same period, the Company will sell

¹ Although O. S. T. Employees' Committee was served with Notice of Hearing, it did not appear.

products valued in excess of \$5,000,000, about 80 percent of which has or will be shipped to points outside the State of Ohio. The Company admits that, for the purpose of this proceeding, it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

United Steelworkers 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

The Company refuses to recognize the Union as the exclusive collective bargaining representative of its employees until such time as the Union is certified by the Board.

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.²

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 of the Company, excluding foremen, assistant foremen, department superintendents, clerical employees located in the mill general office, clerical employees in the administration office, chemists and metallurgists, salaried janitors, and auxiliary military police, constitute an appropriate unit. The only controversy with respect to the unit concerns maintenance watchmen.

The Company employs seven persons classified by it as maintenance watchmen. The Union would exclude them from the unit whereas the Company would include them. The maintenance watchmen are not armed nor are they sworn as military auxiliary police. They are paid on a lower rate of pay than the auxiliary military police and are all older men who because of their age and physical condition are not qualified for the training and duties of auxiliary military police. The maintenance watchmen check employees in and out of the plant, punch fire-control clocks throughout the plant, and ride with drivers of trucks which bring materials into the plant. We shall include the maintenance watchmen in the unit since they are not armed nor militarized and since their duties appear to be those customarily per-

²The Field Examiner reported that the Union presented 381 membership application cards bearing apparently genuine signatures of persons whose names appear on the Company's pay roll of October 15, 1943. There are approximately 981 employees in the appropriate unit.

formed by watchmen, rather than those of a specialized plant-protection force.

We find that all production and maintenance employees of the Company, including maintenance watchmen, but excluding clerical employees located in the mill general office, clerical employees in the administration office, chemists, metallurgists, salaried janitors, auxiliary military police, foremen, assistant foremen, department superintendents, and any 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 3, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Ohio Seamless Tube Company, Shelby, Ohio, 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 Eighth 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 United Steelworkers of America, C. I. O., for the purposes of collective bargaining.