

In the Matter of M B MANUFACTURING COMPANY, INC. and UNITED
ELECTRICAL, RADIO & MACHINE WORKERS OF AMERICA (C. I. O.)

Case No. 1-R-1581.—Decided November 30, 1943

*Mr. Arthur W. Chambers, of New Haven, Conn., for the Company.
Messrs. Charles Flaherty and Joseph Caiazza, of New Haven,
Conn., and Mr. Charles Rivers, of Bridgeport, Conn., for the C. I. O.
Mr. James F. Fahy, of New Haven, Conn., for the Independent.
Mr. William C. Baisinger, Jr., of counsel to the Board.*

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by United Electrical, Radio & Machine Workers of America (C. I. O.), herein called the C. I. O., alleging that a question affecting commerce had arisen concerning the representation of employees of M B Manufacturing Company, Inc., New Haven, Connecticut, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Robert E. Greene, Trial Examiner. Said hearing was held at New Haven, Connecticut, on October 15, 1943. The Company, the C. I. O., and Employees Security League, Inc., of the M B Manufacturing Company, Inc., herein called the Independent, appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, to introduce evidence bearing upon the issues, and to file briefs with the Board. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

M B Manufacturing Company, Inc., is a Connecticut corporation engaged at plants located at New Haven and East Haven, Connecticut.
53 N. L. R. B., No. 191.

cut, in the manufacture, sale, and distribution of airplane precision parts and engine mountings. During the part of 1943 immediately preceding the date of the hearing, over 70 percent of the raw materials used by the Company was shipped to the Company's plants from points outside the State of Connecticut. During the same period the Company produced in excess of 5 million dollars worth of finished products, of which approximately 70 percent was shipped to points outside the State of Connecticut. The Company admits, and we find that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

United Electrical, Radio & Machine Workers of America (C. I. O.) is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

Employees Security League, Inc., of the M B Manufacturing Company, Inc., is an unaffiliated labor organization, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

By letter dated July 19, 1943, the C. I. O. requested the Company to recognize it as the exclusive bargaining representative of the employees within an alleged appropriate bargaining unit. The Company refuses to accord the C. I. O. such recognition unless and until it is certified by the Board.

A statement of the Regional Director, supplemented by statement made by the Trial Examiner at the hearing, indicates that the C. I. O. and the Independent each represents a substantial number of employees within 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 C. I. O. seeks a bargaining unit comprised of all production and maintenance employees of the Company's two plants located in

¹ The Regional Director reported that the C. I. O. submitted 303 membership cards bearing apparently genuine original signatures; that a sample check of approximately 23 percent of said cards indicates that 88 percent of the signatures appearing thereon correspond to the names of persons listed on the Company's pay roll of July 23, 1943, which contains the names of approximately 550 persons within the alleged appropriate unit.

The Trial Examiner reported that the Independent submitted 300 application for membership cards bearing apparently genuine original signatures; that although no pay roll was available at the hearing the treasurer of the Independent testified that all the persons and names appearing on said cards were employees of the Company at the date of the hearing.

New Haven, Connecticut, including set-up men, inspectors, and shipping and receiving employees, but excluding executives, main office and plant clerical employees, foremen, assistant foremen, nurses, and guards. The Independent requests a bargaining unit limited to the production and maintenance employees of the Company's plant located at 1060 State Street, New Haven, Connecticut. The Independent apparently takes the alternative position that, in the event the Board rejects its contention, the petition should be dismissed on the ground that all production and maintenance employees of the two New Haven plants and the East Haven plant of the Company comprise the only alternative appropriate unit. The Independent would include set-up men and inspectors in its proposed unit, but would exclude executives, main office and plant clerical employees, shift foremen, and any other supervisory employees. In the main, the Company's position with respect to the appropriate unit is identical to the alternative position of the Independent. However, the Company desires to exclude both set-up men and inspectors from the bargaining unit.

The principal issue to be resolved concerns the appropriateness of a one-plant, two-plant, or three-plant unit.

The Company was incorporated in February 1938 and conducted its manufacturing operations in a frame building located at 1060 State Street, New Haven, Connecticut, until the fall of 1939 at which time a brick building, known as the State Street plant, was erected on the same site to replace the frame building. In 1940 the Company expanded its plant to adjoining property purchased by the Defense Plant Corporation. Also in 1940 the Defense Plant Corporation purchased the building on East Street in New Haven, Connecticut, which is used by the Company as a warehouse and is known as the East Street plant. The East Street plant is not a production plant but merely a loft building in which the Company stores materials. It operates substantially as a department of the Company rather than a separate plant. In the summer of 1943 the Company further expanded in order to meet the increased demands of the Government for airplane precision parts. Unable to procure any more property adjoining or in the vicinity of its State Street plant, the Company was compelled to purchase, through the Defense Plant Corporation, the building located in East Haven, Connecticut, known as the East Haven plant. The record indicates that the Company's operations at its three plants are closely integrated. All personnel work, book-keeping, pay-roll work, and the purchasing of materials for all three plants are functions which are exclusively performed at the State Street plant. One works manager supervises the operations of all three plants. The Company employs but one personnel manager, one chief inspector, and one quality engineer. The East Street plant

functions as a warehouse for the other two plants and many of the products of the State Street plant are further processed at the East Haven plant and vice versa. On the other hand, the New Haven plants are geographically separated from the East Haven plant, and interchange of employees between the New Haven plants and the East Haven plant is negligible. Although the C. I. O. denies that it has conducted any organizational campaign among employees of the East Haven plant, the record indicates that in May and June 1943 the C. I. O. circulated union literature at the East Haven plant in an apparent attempt to solicit membership among the employees there. For reasons not revealed in the record, this organizational attempt apparently met with failure for soon thereafter the C. I. O. filed its petition in this proceeding.

Inasmuch as the East Street plant is not a separate production plant of the Company but merely a storage department which operates as an adjunct to the State Street plant and since the employees of the East Street plant apparently desire to bargain collectively in conjunction with the employees of the State Street plant,² we must reject the contention of the Independent with respect to the appropriateness of the unit confined to the State Street plant.

We recognize the high degree of integration among the various operations of the Company's three plants. Nevertheless, we are of the opinion that since the New Haven plants are geographically apart from the East Haven plant and since the interchange of personnel between the plants is negligible, the employees of the New Haven plants comprise a unit sufficiently identifiable for the purposes of collective bargaining. Nor do we believe that it would serve any useful purpose to deny these employees the right to bargain collectively merely because the employees at the Company's East Haven plant apparently do not desire a collective bargaining representative at this time.³ Accordingly, we conclude that the employees of the New Haven plants of the Company properly constitute an appropriate bargaining unit.

There remains for consideration the issues concerning the set-up men and inspectors. We shall discuss each of these categories of employees below.

Set-up men: The set-up men employed by the Company work almost exclusively in the turret-lathe department. They are usually assigned to a certain number of machines which they set up or adjust for the machine operators and are responsible for the proper functioning of these machines. The majority of the set-up men were once

² The record indicates that the membership cards submitted to the Field Examiner by the C. I. O. bear the names of persons employed in each of the New Haven plants.

³ The record is devoid of evidence indicating that the Independent represents any employees in the East Haven plant.

machine operators. The set-up man has no authority to hire or discharge but may recommend the discharge or transfer of the operators whose work he supervises. Such recommendations are made by the set-up man to his foreman who in turn reports these recommendations to the personnel manager of the Company. The personnel manager alone possesses the authority to hire, transfer, promote, or discharge employees. However, the personnel manager testified that the recommendations of the set-up men were "positively" effective recommendations. In view of these facts, we are of the opinion that the set-up men employed by the Company exercise sufficient supervisory authority to warrant excluding them from the unit.

Inspectors: The inspectors employed by the Company inspect the work of the machine operators to determine whether each machine is turning out the product according to specification. They have the authority to reject defective work but must report to the foreman in charge before ordering a machine shut down. Inspectors are employed at all three plants of the Company. The Company would exclude inspectors from any bargaining unit since it argues there is danger of collusion between the machine operators and inspectors if they both belong to the same labor organization. This contention is without merit. While the inspectors may affect the bonus payments made to machine operators, there is no reason to believe that they would perform their duties less efficiently should they be a part of the same bargaining unit as the machine operators. We shall include inspectors in the bargaining unit.⁴

We find that all production and maintenance employees of the Company's two plants located in New Haven, Connecticut, including shipping and receiving employees and inspectors, but excluding executives, main office and plant clerical employees, nurses, guards, foremen, assistant foremen, set-up men, 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.⁵

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 pay-roll period immediately preceding the date of the Direction of

⁴ See *Matter of Republic Aviation Corporation, Indiana Division*, 51 N. L. R. B. 1287; *Matter of Electric Boat Company*, 50 N. L. R. B. 438.

⁵ Our finding herein with respect to the appropriate unit, however, does not preclude a later determination at another stage of self-organization that a more comprehensive unit is appropriate.

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 M B Manufacturing Company, Inc., New Haven, Connecticut, 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 First 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 they desire to be represented by United Electrical, Radio & Machine Workers of America (C. I. O.), or by Employees Security League, Inc., of the M B Manufacturing Company, Inc., for the purposes of collective bargaining, or by neither.