

In the Matter of ALUMINUM FORGINGS, INC. and INTERNATIONAL BROTHERHOOD OF FIREMEN AND OILERS, LOCAL 249

In the Matter of ALUMINUM FORGINGS, INC. and UNITED AUTOMOBILE, AIRCRAFT AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, CIO

In the Matter of ALUMINUM FORGINGS, INC. and DISTRICT 50, UNITED MINE WORKERS OF AMERICA

In the Matter of ALUMINUM FORGINGS, INC. and ERIE DIE SINKERS LODGE No. 270 OF THE INTERNATIONAL DIE SINKERS CONFERENCE

Cases Nos. 6-R-800, 6-R-816, 6-R-827 and 6-R-852 respectively.—
Decided December 2, 1943

Messrs. John S. Slosson and Robert O. Pickard, both of Erie, Pa., for the Company.

Messrs. Peter Maccagno and Stanley Yopek, both of Erie, Pa., for District 50.

Messrs. Eugene P. Drumm and Ralph W. Tillitson, both of Erie, Pa., for the U. A. W.

Mr. Ralph N. Teaxter, of Erie, Pa., for the Firemen.

Messrs. J. G. Meiner and Samuel Jackson, both of Erie, Pa., for the Die Sinkers.

Mr. Edward F. Netzler, of Erie, Pa., for the Blacksmiths.

Mr. David V. Easton, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon petitions duly filed by International Brotherhood of Firemen and Oilers Local 249, herein called the Firemen, United Automobile, Aircraft & Agricultural Implement Workers of America, CIO, herein called the U. A. W., District 50, United Mine Workers of America, herein called District 50, and Erie Die Sinkers Lodge No. 270 of the International Die Sinkers, herein called the Die Sinkers, alleging that questions affecting commerce had arisen concerning the representation

of employees of Aluminum Forgings, Inc., Erie, Pennsylvania, herein called the Company, the National Labor Relations Board consolidated the cases and provided for an appropriate hearing upon due notice before S. Craig Carnes, Trial Examiner. Said hearing was held at Erie, Pennsylvania, on November 4, 1943. The Company, the Firemen, the U. A. W., District 50, the Die Sinkers, and International Brotherhood of Blacksmiths, Drop Forgers, Welders and Helpers, American Federation of Labor, herein called the Blacksmiths, appeared,¹ participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. Both the U. A. W. and District 50 objected to the participation of the Blacksmiths in the hearing, and to its being placed upon the ballot in any election ordered by the Board as a result of the hearing. The Trial Examiner overruled the objections with respect to intervention in the hearing, and permitted the Blacksmiths to take part therein; however, he reserved for decision by the Board that part of the objections relating to participation by the Blacksmiths in any ordered election. For reasons hereinafter stated, the objections reserved to the Board are hereby sustained. The Trial Examiner's rulings made at the hearing are free from prejudicial error, and are hereby affirmed. All parties were afforded an 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

Aluminum Forgings, Inc., a Pennsylvania corporation, operates a plant located at Erie, Pennsylvania, engaged in the production of aluminum forgings of all types utilized in the airplane industry. All equipment contained within said plant is entirely owned by the Defense Plant Corporation, an instrumentality of the United States Government, and the entire productivity of said plant is devoted to war purposes. During the 12-month period ending September 9, 1943, the Company purchased raw materials valued in excess of \$500,000, of which more than 50 percent was transported to the Company from points outside the State of Pennsylvania. During the same period the Company produced finished products valued in excess of \$200,000, of which more than 50 percent was transported to points outside the State of Pennsylvania. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

¹ The International Association of Machinists, although duly notified, did not appear in this proceeding.

II. THE ORGANIZATIONS INVOLVED

United Automobile, Aircraft & Agricultural Implement Workers of America, is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

District 50, United Mine Workers of America, is a labor organization admitting to membership employees of the Company.

Erie Die Sinkers Lodge No. 270 of the International Die Sinkers Conference is an unaffiliated labor organization, admitting to membership employees of the Company.

International Brotherhood of Firemen & Oilers, Local 249, and International Brotherhood of Blacksmiths, Drop Forgers, Welders and Helpers, are labor organizations affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTIONS CONCERNING REPRESENTATION

The Company refuses to recognize the labor organizations involved herein as the bargaining representatives of the units each claims to be appropriate unless and until said labor organizations are certified by the Board.

A statement of the Regional Director introduced into evidence at the hearing, indicates that the Firemen, the U. A. W., District 50, and the Die Sinkers each represents a substantial number of employees in the unit which each respectively contends is appropriate.²

We find that questions affecting commerce have 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.

²The Regional Director reported that the Firemen submitted 8 authorization cards bearing apparently genuine, original signatures, and containing the names of employees appearing on the Company's pay roll dated October 4, 1943; that said pay roll contained the names of 10 persons in the unit sought by the Firemen. He further noted that neither the U. A. W. nor District 50 represented any of the employees in said unit.

With respect to the claims of the U. A. W., the Regional Director reported that it submitted cards bearing apparently genuine, original signatures containing the names appearing upon the afore-mentioned pay roll, indicating that it represented 36 percent of the employees in the unit which it seeks. He further noted that among these cards were 9 signed by persons classified by the Company as timekeepers, and that the Company presently employs 10 such employees.

With respect to the claims of District 50, the Regional Director reported that it submitted authorization cards bearing apparently genuine, original signatures, and containing the names of persons appearing upon the above-mentioned pay roll equal in number to 18 percent of the total number of persons in the unit which it seeks.

With respect to the claims of the Die Sinkers, the Regional Director reported that it submitted a petition containing 51 signatures; that all the names appearing thereon also appeared upon the afore-mentioned pay roll; and that said pay roll contained the names of 51 persons in the unit sought by the Die Sinkers.

The Blacksmiths, although it asserted an interest in this proceeding, failed to substantiate said interest in that it made no showing of representation among the employees in the unit which it seeks to represent. Under these circumstances we shall not permit it to participate in the elections hereinafter ordered. See *Matter of Fisher Cleveland Aircraft Division, General Motors Corporation, Plant No. 2*, 52 N. L. R. B. 1291.

IV. THE APPROPRIATE UNITS

The U. A. W. seeks to represent a unit consisting of all production and maintenance employees of the Company, including factory clericals and timekeepers and their assistants, but excluding die sinkers, die sinkers' apprentices, all person working on dies or parts of dies used in the manufacture and completion of forgings, executives, office clerical employees, guards, salaried supervisors, 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, salaried employees with the exception of those timekeepers who receive a salary, power plant employees, cafeteria employees, Methods and Time Study Department employees, Production Planning Department employees, laboratory employees and technical employees. District 50 agrees generally with the foregoing inclusions and exclusions but would exclude timekeepers, timekeepers' assistants, and shop clerical employees from the industrial unit. The Company is also generally in accord with the foregoing unit, but would include therein power plant employees and exclude therefrom timekeepers, timekeepers' assistants, and factory clerical employees.

Timekeepers and Timekeepers' assistants: These employees work on the production floor and perform the duties usual to these classifications. Prior to August 1943, they were paid on an hourly basis, but since that time the Company has placed them upon the salaried pay roll. They report to the chief timekeeper and are not subject to supervision by any production and maintenance supervisors. The Company, in contending that they be excluded from the industrial unit, argues that these employees have access to information with respect to matters pertaining to the Company's production and therefore confidential. While they do not appear to have access to matters pertaining to labor policy, and therefore do not fall within our customary definition of confidential employees, we are of the opinion that their duties and interests are not sufficiently akin to those of the production and maintenance workers as to warrant their inclusion within the same bargaining unit. We shall therefore exclude them from the industrial unit.³

Factory clerical employees: These employees are attached to various production departments and report to production supervisors. The U. A. W. would include all of them within the industrial unit with the exception of those clericals assigned to the Production Planning

³ See *Matter of Mills Novelty Company*, 46 N. L. R. B. 1205. It is apparent from our finding herein that we do not thereby preclude such employees from being represented for the purposes of collective bargaining in a separate unit. See *Matter of General Motors Corporation, Eastern Aircraft Division, Baltimore Plant*, 52 N. L. R. B. 954; *Matter of General Motors Corporation, Eastern Aircraft, Trenton Division*, 51 N. L. R. B. 1366.

Department (except the shipping clerk, who is assigned thereto but reports to the supervisor of the Shipping Department), and the secretaries to the general superintendent and the master mechanic; both the Company and District 50, however, desire their exclusion. The record indicates that the work performed by these clerical employees is closely aligned to that of the production and maintenance workers. Accordingly, we shall include all factory clerical employees with the exception of the secretaries of the general superintendent and the master mechanic, and the clericals attached to the Production Planning Department (but not the shipping clerk) within the unit hereinafter found appropriate.⁴

Power Plant employees: The Firemen seeks to represent in a separate unit all employees of the Company engaged as licensed engineers, firemen, and ash men in the Company's power plant, excluding all supervisory employees. Both the U. A. W. and District 50 lack representation within this group, and agree that they should be excluded from the industrial unit; the Company contends that they should be included therein. We have previously found that the duties and interests of these employees are such that would warrant our placing them in a separate and distinct unit,⁵ and since neither industrial organization seeks to represent them, we shall find that these employees constitute a separate appropriate unit.

Die Sinker employees: The Die Sinkers seeks to represent all employees of the Company working on dies or parts of dies used in the manufacture and completion of forgings. Both the Company and the industrial labor organizations agree that these employees should constitute a separate unit, and neither of the latter claims any interest among these employees. We are of the opinion that these employees have interests and duties which clearly indicate the propriety of a separate unit as to them, and we shall, therefore, find that they constitute a separate and distinct appropriate unit.⁶

In accordance with the foregoing we find that the following groups of employees of the Company, excluding all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute appropriate units:

1. All licensed engineers, firemen, and ash men in the power plant of the Company.
2. All employees working on dies or parts of dies used in the manufacture and completion of forgings;

⁴ *Matter of Jaeger Watch Company*, 45 N. L. R. B. 616.

⁵ *Matter of Trojan Powder Company*, 46 N. L. R. B. 403; *Matter of Bear Brand Hosiery Company*, 46 N. L. R. B. 609, at p. 615.

⁶ *Matter of Armstrong Bros. Tool Co.*, 47 N. L. R. B. 221.

3. All production and maintenance employees including factory clericals, but excluding licensed engineers, firemen, and ash men in the power plant of the Company, employees working on dies or parts of dies used in the manufacture and completion of forgings, executives and administrators, cafeteria employees, office clerical employees, Methods and Time Study Department employees, Production Planning Department employees (except the shipping clerk assigned thereto), Sales Department employees, timekeepers and their assistants, secretaries to the general superintendent and the master mechanic, laboratory and technical employees, guards and salaried supervisory employees.

V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the questions concerning representation which have arisen be resolved by elections by secret ballot among the employees in the appropriate units hereinbefore described. It appears that at the time of the hearing the Company employed approximately 40 percent of its anticipated personnel, and expected to increase its staff by approximately 10 to 12 percent per month until its full complement is reached in the spring of 1944. Since, as nearly as can be ascertained, the Company will have employed approximately 50 percent of its total anticipated personnel on or about December 15, 1943, we shall direct that the employees of the Company eligible to vote in the elections shall be those who were employed during the pay-roll period immediately subsequent to December 15, 1943,⁷ subject to the limitations and additions set forth in the Direction.⁸

DIRECTION OF ELECTIONS

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 the 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 Aluminum Forgings, Inc., Erie Pennsylvania, elections 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 Sixth Region, acting in this matter as

⁷ See *Matter of Remington Rand, Propeller Division*, 50 N. L. R. B. 819.

⁸ The Firemen requested that it be designated on the ballot as "Firemen and Oilers Local 249, A. F. L."; the Die Sinkers requested that it be designated thereon as "Local 270 of the I. D. S. C."; and the U. A. W. requested that it be designated thereon as "U. A. W.-C. I. O., Aircraft Division." These requests are hereby granted.

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 units listed below who were employed during the pay-roll period immediately subsequent to December 15, 1943, 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 Direction of Elections, and excluding all supervisory employees with authority to hire, promote, discipline, discharge, or otherwise effect changes in the status of employees, or effectively recommend such action:

1. All employees engaged as licensed engineers, firemen, and ash men, in the power plant, to determine whether or not they desire to be represented by International Brotherhood of Firemen & Oilers, Local 249, A. F. L., for the purposes of collective bargaining;

2. All employees working on dies or parts of dies, used in the manufacture and completion of forgings, to determine whether or not they desire to be represented by Local 270, of the I. D. S. C.;

3. All production and maintenance employees including all factory clerical employees whose work is closely allied with that of the production and maintenance employees, but excluding those employees in groups 1 and 2 above, executives, administrators, cafeteria employees, office clerical employees, Methods and Time Study Department employees, Production Planning Department employees (with the exception of the shipping clerk assigned thereto), timekeepers and their assistants, secretaries to the general superintendent and master mechanic, clericals attached to the Sales Department, laboratory and technical employees, guards, and salaried supervisory employees, to determine whether they desire to be represented by U. A. W.-C. I. O., Aircraft Division, or by District 50, United Mine Workers of America, for the purposes of collective bargaining, or by neither.