

In the Matter of UNITED STATES RUBBER COMPANY and AMERICAN
FEDERATION OF LABOR

Case No. 9-R-1248.—Decided December 3, 1943

Mr. G. A. Graham and Mr. N. Gibson Madge, of Charleston, W. Va., for the Company.

Mr. Alfred T. Murphy, of Lima, Ohio, and Mr. W. E. Kirk, of Charleston, W. Va., 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 American Federation of Labor, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of United States Rubber Company, Institute, West Virginia, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before John W. Coddair, Jr., Trial Examiner. Said hearing was held at Charleston, West Virginia, on November 18, 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

United States Rubber Company is a New Jersey corporation operating a plant at Institute, West Virginia, with which we are here concerned, where it is engaged in the manufacture of synthetic rubber. The Institute plant has an annual production schedule calling

for 90,000 long tons of synthetic rubber, valued in excess of \$30,000,000. Most of the synthetic rubber is shipped to points outside the State of West Virginia.

II. THE ORGANIZATION INVOLVED

American Federation of Labor is a labor organization 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 plant-protection employees until it is certified by the Board.

During September 1943, an election was held among the plant-protection employees of the Company, with only United Rubber Workers of America, C. I. O., herein called the C. I. O., on the ballot. A majority of the voters voted against the C. I. O. The Company contends that no election should be held at this time and that the petition should be dismissed because of the short period that has elapsed since the September 1943 election. The record shows that the C. I. O. is not now interested in the plant-protection employees and that the Union has obtained 23 membership application cards since the September 1943 election. We find the position taken by the Company to be untenable.

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.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 National Labor Relations Act.

IV. THE APPROPRIATE UNIT

The Union urges that all guards and fire force employees, including the technical sergeant, but excluding the captain, lieutenants, sergeants, and the fire chief, constitute an appropriate bargaining unit. The Company took no position with respect to the scope of the unit. Evidence introduced at the hearing discloses that the employees claimed by the Union constitute a well-defined homogeneous group. All of them are members of the auxiliary military police. Accordingly, we

¹ The Field Examiner reported that the Union presented 23 membership application cards bearing apparently genuine original signatures of persons whose names appear on the November 2, 1943, pay roll of the Company. There are approximately 59 employees in the appropriate unit.

find that a unit of guards and plant-protection employees is appropriate.

We find that all guards and fire force employees at the Institute plant of the Company, including the technical sergeant, but excluding the captain, lieutenants, sergeants, the fire chief, 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 United States Rubber Company, Institute, West Virginia, 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 Ninth 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 American Federation of Labor for the purposes of collective bargaining.