

In the Matter of SHELDON SERVICE CORPORATION and UNITED CONSTRUCTION WORKERS, UNITED MINE WORKERS OF AMERICA

Case No. 2-R-4159.—Decided December 4, 1943

Mr. Frederick R. Livingston, for the Board.

Mr. George J. DeLuca, of Forest Hills, N. Y., for the Company.

Mr. Michael E. Rosenstein, of New York City, 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 Construction Workers, United Mine Workers of America, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Sheldon Service Corporation, Long Island City, New York, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before James C. Batten, Trial Examiner. Said hearing was held at New York City, on November 1, 1943. The Board, 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. During the course of the hearing counsel for the Company moved to dismiss the petition. The Trial Examiner reserved ruling. The motion is hereby denied. 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

Sheldon Service Corporation is a New York corporation with its principal place of business at Long Island City, New York, where it
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is engaged in the manufacture of machined aircraft parts. During 1942 the finished products upon which the Company performed operations represented substantial value. All products worked upon by the Company are shipped to the United States Armed Forces. The Company admits that 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, is a labor organization, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On August 10, 1942, and thereafter, the Union requested the Company to recognize it as the exclusive collective bargaining representative of the Company's employees. The Company refused these requests.

The record indicates that the Union represented a substantial number of employees in the unit hereinafter found appropriate at the time of its first claim upon the Company.

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

We find, in substantial agreement with a stipulation of the parties, that all production, maintenance, and shipping employees of the Company, excluding office and clerical employees, foremen, subforemen, set-up men, and any other supervisory employees with authority to hire, discharge, discipline, promote, 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 Sheldon Service Corporation, Long Island City, New York, 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 Second 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 Construction Workers, United Mine Workers of America, for the purposes of collective bargaining.