

In the Matter of TURNER MACHINE CO., INC. and INTERNATIONAL ASSOCIATION OF MACHINISTS, A. F. OF L.

Case No. 2-R-4278.—Decided December 6, 1943

Mr. J. S. Whiteside, Jr., of New Haven, Conn., for the Company.

Mr. Fred Cederholm, of Bridgeport, Conn., for the Union.

Mr. Louis Cokin, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition and amended petitions duly filed by International Association of Machinists, A. F. of L., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Turner Machine Co., Inc., Danbury, Connecticut, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before James C. Paradise, Trial Examiner. Said hearing was held at Danbury, Connecticut, on November 16, 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

Turner Machine Co., Inc., is a Connecticut corporation operating a plant at Danbury, Connecticut, where it is presently engaged in the manufacture of parts for shells and other war implements. During the past year the Company purchased raw materials valued at about

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\$35,000, approximately 50 percent of which was shipped to it from points outside the State of Connecticut. During the same period the Company produced products valued at about \$200,000, substantially all of which was shipped to points outside the State of Connecticut. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

International Association of Machinists is a labor organization affiliated with the American Federation of Labor, 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 the Trial Examiner, read 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 Act.

IV. THE APPROPRIATE UNIT

We find, in agreement with a stipulation of the parties, that all production and maintenance employees of the Company, excluding watchmen and 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 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 find that the question concerning representation which has arisen can best be resolved by means of an election by secret ballot. The Union urges that the pay roll as of the date of the hearing be used to determine eligibility to vote. Inasmuch as no persuasive reason appears as to why we should depart from our usual practice we shall direct that those eligible to vote shall be the employees in the appro-

¹ The Trial Examiner reported that the Union presented 14 membership application cards bearing apparently genuine signatures of persons whose names appear on the Company's pay roll of November 16, 1943. There are approximately 28 employees in the appropriate unit.

priate 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.

On September 13, 1943, the Company discharged Michael Hrabcsak. The Union thereafter filed charges on behalf of this employee, alleging that he was discharged in violation of Section 8 (3) of the Act. The charges are pending at the present time.² The Union requests that he be allowed to vote in the election and the Company opposes his participation therein. We will allow Hrabcsak to vote in the election but his ballot will be segregated and we shall defer ruling as to its validity pending a determination of the unfair labor practice charges. By allowing this discharged employee to vote we are in no way passing upon the merits of the pending charges.

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 Turner Machine Co., Inc., Danbury, 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 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 International Association of Machinists, A. F. of L., for the purposes of collective bargaining.

MR. GERARD D. REILLY took no part in the consideration of the above Decision and Direction of Election.

² However, the Union filed a waiver of the charges for the purpose of this proceeding.