

In the Matter of ROSS GEAR AND TOOL COMPANY and INTERNATIONAL UNION, UNITED AUTOMOBILE, AIRCRAFT AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, UAW-CIO

Case No. 13-R-2094.—Decided December 13, 1943

*Mr. Rochester Baird, of Lafayette, Ind., for the Company.
Messrs. Mose Kucela and John Barteo, both of Indianapolis, Ind., for the U. A. W.
Mr. David V. Easton, of counsel to the Board.*

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, UAW-CIO, herein call the U. A. W., alleging that a question affecting commerce had arisen concerning the representation of employees of Ross Gear and Tool Company, Lafayette, Indiana, herein called the Company; the National Labor Relations Board provided for an appropriate hearing upon due notice before Robert E. Ackerberg, Trial Examiner. Said hearing was held at Lafayette, Indiana, on November 12, 1943. The Company and the U. A. W. 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 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

Ross Gear and Tool Company, an Indiana corporation with its principal office and sole plant located at Lafayette, Indiana, is engaged in the manufacture, sale, and distribution of cam and lever steering

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devices for motor vehicles and ships. During the year ending October 31, 1943, the Company purchased raw materials valued in excess of \$500,000, of which approximately 69 percent was shipped to its plant from points outside the State of Indiana. During the same period the Company produced finished products valued at more than \$1,000,000, of which approximately 83 percent was shipped to points outside the State of Indiana. We find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

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

III. THE QUESTION CONCERNING REPRESENTATION

By letter dated October 1, 1943, the U. A. W. requested recognition by the Company as the exclusive bargaining representative of the latter's employees. The Company replied by letter dated October 7, 1943, in which it refused such recognition in the absence of certification by the Board.

A statement of the Regional Director, introduced into evidence at the hearing, indicates that the U. A. W. represents a substantial number of employees in the unit hereinafter found 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 U. A. W. seeks to represent a unit comprised of production and maintenance employees of the Company, excluding salaried employees, plant-protection employees, office clerical employees, foremen, assistant foremen, assistant 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. The Company agrees generally with the foregoing unit, but contends that stock chasers, plant-protection employees, and factory clerical employees should be included within the unit.

¹ The Regional Director reported that the U. A. W. submitted 176 designations, all of which contained apparently genuine, original signatures. He further reported that, due to the fact that the Company refused to submit a pay roll, these designations were not checked. The record indicates that there are approximately 465 employees in the unit hereinafter found appropriate

Stock chasers: The Company employs two workers in this classification. One of them is hourly paid and listed on the production pay roll, whereas the other, due to the fact that he was transferred from the office, is still retained on the office pay roll and receives a salary. The U. A. W. would include the hourly paid stock chaser, but exclude the other. However, since both employees perform the same type of work, we are of the opinion that both should be treated alike and that their duties, which require full-time, close association with the production and maintenance employees, are such as to warrant their inclusion within a unit of such employees. We shall therefore include them.

Plant-protection employees: The Company employs approximately 14 individuals engaged as outside guards, inside guards, watchmen, and inside laborers. All of these employees have been militarized. In conformance with our usual policy, we shall exclude these employees from the unit hereinafter found appropriate.²

Factory clerical employees: The Company employs several employees engaged as checkers, clerks, stock clerks, and stockkeepers, who are assigned to various production departments. The Company contends that all such employees should be included within the unit, whereas the U. A. W. contends that all such employees, with the exception of the male shipping clerks, should be excluded. The record indicates that these employees work under the direction of production or maintenance supervisors, that all perform some manual labor, with the exception of the female shipping clerk, and that they are carried on the factory pay roll as distinguished from the office pay roll. In view of the foregoing, we are of the opinion that the duties and interests of these employees warrant their being placed within the industrial unit.³ We shall include them.

Set-up men: The Company employs several set-up men on the day shift who are concerned solely with the setting up and operation of machinery. The record indicates that these employees have no authority over their fellow workers. They are distinguishable from the night set-up men who are called "assistant supervisors," and who are in charge of night shifts in their respective departments. We shall include the day set-up men within the unit.⁴

We find that all production and maintenance employees of the Company, including stock chasers; factory clerical employees, and day set-up men, but excluding plant-protection employees, salaried employees, office clerical employees, foremen, assistant foremen, assistant supervisors, and all other supervisory employees with authority

² *Matter of Dravo Corporation*, 52 N. L. R. B. 322; *Matter of P. H. Hanes Knitting Company*, 52 N. L. R. B. 746

³ *Matter of Jaeger Watch Company, Inc.*, 45 N. L. R. B. 616

⁴ *Matter of The Murray Company*, 46 N. L. R. B. 1097

to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action,⁵ 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 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.⁶

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 Ross Gear and Tool Company, Lafayette, Indiana, 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 Thirteenth 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 those employees who have since quit or been discharged for cause, and have not been rehired or reinstated prior to the election date, to determine whether or not they desire to be represented by U. A. W.-C. I. O., for the purposes of collective bargaining.

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

⁵ The record shows that the chief inspector, assistant chief inspector, chief machinist, and chief electrician, exercise substantial supervisory authority within the definition set forth above.

⁶ The U. A. W. requested that it be designated upon the ballot as "U. A. W.-C. I. O." This request is hereby granted.