

In the Matter of FAULTLESS CASTER CORPORATION and UNITED
ELECTRICAL, RADIO & MACHINE WORKERS OF AMERICA, CIO

Case No. 14-R-805.—Decided December 15, 1943

Mr. Isidor Kahn, of Evansville, Ind., for the Company.

Mr. James Payne, of Evansville, Ind., and *Mr. David Scribner*,
of New York City, for the CIO.

Mr. Glenn L. Moller, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Electrical, Radio & Machine Workers of America, CIO, herein called the CIO, alleging that a question affecting commerce had arisen concerning the representation of employees of Faultless Caster Corporation, Evansville, Indiana, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Harry G. Carlson, Trial Examiner. Said hearing was held at Evansville, Indiana, on November 12, 1943. The Company and the CIO 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. The CIO waived "any right, power, or privilege to protest any election held (in this proceeding) on any ground set forth in Cases Nos. 14-C-784¹ and 14-C-899."²

Upon the entire record in the case, the Board makes the following

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Faultless Caster Corporation is an Indiana corporation with its principal office and place of business at Evansville, Indiana, where it

¹ 45 N. L. R. B. 146; enforced 135 F. (2d) 559

² Charges filed since the hearing in the instant proceeding.

is engaged in the manufacture of casters and furniture hardware. During the year 1942, the Company purchased raw materials valued in excess of \$50,000, approximately 75 percent of which was shipped to the Company from points outside the State of Indiana. During the same period the Company sold and shipped finished products valued in excess of \$100,000 approximately 75 percent of which was shipped to points outside the State of Indiana. The Company is also currently engaged in war production.

We find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

United Electrical, Radio & Machine Workers of America, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

By letter dated October 16, 1943, the CIO requested recognition as the exclusive bargaining representative of the Company's employees. The Company failed to respond to the CIO's request.

A statement of the Regional Director, introduced into evidence at the hearing, indicates that the CIO represents a substantial number of employees in the unit hereinafter found appropriate.³

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 CIO contends that the appropriate unit consists of all employees of the Company, including toolroom and tool crib employees, non-militarized watchmen and firemen, but excluding the superintendent, assistant superintendent, foremen, assistant foremen, uniformed guards, office and clerical employees, part-time after-school workers, and all supervisory employees who have authority to hire, discharge, promote, discipline, or otherwise effect changes in the status of employees or effectively recommend such action. The Company agrees that the above unit is appropriate with the minor exceptions hereafter discussed.

There is a classification of employees, about 50 in number, referred to as group leaders. The CIO contends that group leaders are super-

³ The Regional Director reported that the CIO submitted 182 authorization cards bearing apparently genuine signatures. At the hearing the CIO submitted 26 additional designations. The Company failed to furnish a pay roll, but stated at the hearing that there are approximately 380 employees in the appropriate unit.

visory employees and should therefore be excluded from the unit. The Company denies that group leaders have supervisory authority and contends that they should be included in the unit. The evidence reveals that group leaders have none of the indicia of supervisory employees. Their time is spent entirely on either production work or instruction of inexperienced employees. They do not receive additional compensation by reason of their classification as group leaders and they participate in incentive pay with the employees in their groups. They have no authority to hire or discharge nor to recommend such action. Their relationship with the employees with whom they work appears to be comparable to the relationship of a journeyman and an apprentice. They will be included in the unit. The CIO contended that there are some employees classified as group leaders who have greater supervisory authority than the other group leaders. The record fails to substantiate this contention. If there are such employees, they will be excluded by application of the definition of supervisory employees set forth hereinbelow.

The only other category of employees in dispute is that of night watchmen-firemen. The CIO seeks to include these employees while the Company wishes to exclude them. These employees, like the uniformed guards, are members of the auxiliary military police. In conformance with our established practice in this regard, all militarized personnel will be excluded from the unit.

We find that all employees of the Company, including toolroom and tool crib attendants and group leaders, but excluding office and clerical employees, technical employees, militarized guards and watchmen, part-time after-school workers, foremen, assistant foremen, and all other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively to 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 an election by secret ballot among the employees in the appropriate unit who were employed during the payroll 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 Faultless Caster Corporation, Evansville, 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 Fourteenth 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, to determine whether or not they desire to be represented by United Electrical, Radio & Machine Workers of America, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.

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