

IN the Matter of ELECTRIC STEEL CASTINGS COMPANY and UNITED
STEELWORKERS OF AMERICA, AFFILIATED WITH THE CONGRESS OF
INDUSTRIAL ORGANIZATIONS

Case No. 9-R-1264.—Decided December 24, 1943

Messrs. Joseph J. Daniel and William G. Davis, both of Indianapolis, Ind., for the Company.

Messrs. James Robb, Harry Burns, and Harry Dougherty, all of Indianapolis, Ind., for the Union.

Mr. David V. Easton, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Steelworkers of America, affiliated with the Congress of Industrial Organizations, on behalf of its members of Local 3114, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Electric Castings Company, Speedway, Indianapolis, Indiana, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before John W. Coddair, Trial Examiner. Said hearing was held at Indianapolis, Indiana, on November 24, 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 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

Electric Steel Castings Company, an Indiana corporation, is engaged in manufacturing unfinished steel castings. For this purpose

it operates a plant located at Speedway, Indianapolis, Indiana, with which we are concerned herein. During the past year, the Company purchased raw materials valued in excess of \$500,000, of which approximately 10 percent was purchased from points outside the State of Indiana. During the same period, the Company manufactured products valued in excess of \$1,500,000, more than 25 percent of which was shipped to points outside the State of Indiana. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

United Steelworkers of America and its Local Union 3114 are labor organizations affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

By letter dated October 19, 1943, the Union advised the Company that it represented a majority of its employees and that it desired to enter into a wage agreement with respect to them. The Company replied by letter dated October 23, in which it indicated doubt of the Union's majority status and declined to enter into any discussions with respect to its employees. Thereafter, the Union advised the Company of the filing of the petition in the instant case.

A statement of the Field Examiner introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the union 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 Union seeks to represent a unit consisting of all production and maintenance employees of the Company, excluding foremen, office and clerical employees, plant-protection employees, time-study men, 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. The Company, while agreeing generally with the foregoing unit, contends that office and clerical employees should be included therein.

¹ The Field Examiner reported that the Union submitted 92 designations, all of which bore apparently genuine and original signatures: that 80 of the designations contained signatures of persons appearing upon the Company's pay roll for the period ending October 30, 1943; and that said pay roll contained the names of 181 persons in the unit hereinafter found appropriate. He further reported that there were 201 persons in the unit claimed appropriate by the Company.

While the record indicates points of similarity between the office and clerical employees and the production and maintenance employees with respect to their conditions of employment, we are of the opinion that such evidence is not sufficient to warrant a finding that both groups of employees belong within the same unit. It has been our usual policy to differentiate between these groups because of obvious functional dissimilarities and we can see no sufficient reason in the instant proceeding for departing therefrom. Accordingly, we shall exclude office and clerical employees from the unit.²

We find that all production and maintenance employees of the Company, excluding office and clerical employees, plant-protection employees, time-study men, foremen, 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, 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.

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 Electric Steel Castings Company, Speedway, Indianapolis, 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 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

² See *Matter of Consolidated Aircraft Corporation*, 45 N. L. R. B. 1155; *Matter of The Collis Company*, 46 N. L. R. B. 680

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 date of the election, to determine whether or not they desire to be represented by United Steelworkers of America, Local Union 3114, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.