

In the Matter of WATERMAN STEAMSHIP CORPORATION and UNITED BROTHERHOOD OF WELDORS, CUTTERS AND HELPERS OF AMERICA

Case No. 15-R-994.—Decided January 4, 1944

Mr. Alexis T. Gresham, of Mobile, Ala., for the Company.

Mr. Charles A. Smet, of St. Louis, Mo., for the Weldors.

Mr. Barney Gegenheimer, of Mobile, Ala., for the M. T. C.

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

DECISION
AND
DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon a petition duly filed by United Brotherhood of Weldors, Cutters, and Helpers of America, herein called the Weldors, alleging that a question affecting commerce had arisen concerning the representation of employees of Waterman Steamship Corporation, Mobile, Alabama, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before J. Michael Early, Trial Examiner. Said hearing was held at Mobile, Alabama, on September 10, 1943. At the commencement of the hearing, the Trial Examiner granted a motion of Mobile Metal Trades Council, A. F. of L., herein called the M. T. C., to intervene. The Company, the Weldors, and the M. T. C. appeared at and participated in the hearing and all parties 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

Waterman Steamship Corporation is an Alabama corporation with its principal place of business at Mobile, Alabama, where it is engaged

in the repair of vessels used for war purposes. Over 50 percent of the raw materials used by the Company are shipped to it from points outside the State of Alabama. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

United Brotherhood of Weldors, Cutters and Helpers of America is an unaffiliated labor organization, admitting to membership employees of the Company.

Mobile Metal Trades Council is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On July 19, 1943, the Weldors requested the Company to recognize it as the exclusive collective bargaining representative of certain of the Company's employees. The Company refused this request.

A statement of the Trial Examiner, read into evidence at the hearing, indicates that the Weldors and the M. T. C. each represents a substantial number of employees in the unit it alleges 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; THE DETERMINATION OF REPRESENTATIVES

The Weldors contends that all welders, burners, and their respective helpers, including leadmen, but excluding quartermen, foremen, assistant foremen, and all other supervisory employees, constitute a separate appropriate unit. The M. T. C. and the Company contend that only an industrial unit is appropriate,² and the M. T. C. requests an election in the unit for which it contends.

On May 6, 1943, upon the petition of Lodge No. 261 of the International Association of Machinists, an affiliate of the M. T. C., herein called the I. A. M., and over the objection of the Company, the Board

¹ The Trial Examiner reported that the Weldors presented 73 membership application cards bearing apparently genuine signatures of persons whose names appear on the August 22, 1943, pay roll of the Company. There are approximately 171 persons in the unit urged by the Weldors. The Trial Examiner further reported that the M. T. C. presented application cards and a dues ledger book containing the names of 306 persons who appear on the August 22, 1943, pay roll. There are approximately 906 employees in the unit urged by the M. T. C.

² The M. T. C. would exclude clerical employees, as well as employees in the drafting department, the timekeeping department, and the plant-protection department, all of whom are ineligible to membership in the M. T. C. unions. The Company seeks to include in the unit all employees, including supervisory personnel.

found appropriate a unit confined to the employees of the Machinists Department, excluding laborers,³ and on June 11, 1943, certified the I. A. M. as bargaining representative in that unit. The business representative of the M. T. C. testified at the hearing in the I. A. M. case that none of the other M. T. C. affiliates had engaged in any organizational activity prior to that time.

Aside from the afore-mentioned certification of the I. A. M. as representative of the employees in the Machinists Department, there has been no formal collective bargaining or designation of a bargaining representative by the Company's employees.⁴ The Company, has, however, as we noted in our prior decision, made it a practice to consult with representatives of various craft unions in furtherance of its policy of conforming the wage levels and working conditions at its yard to those prevailing at other shipyards in the same area. It is thus apparent that there is no history of bargaining on an industrial basis which might foreclose the establishment at the present time of a craft unit of welders.⁵

The record shows that the Company's personnel is divided into departments corresponding generally to traditional craft groups.⁶ Two of the departments into which the yard is organized are the Welding and Acetylene Burning Departments, in which are employed, respectively, all the welders and burners and their helpers. The Welding Department, in which the welders are employed, is supervised by two assistant foremen whose operations are confined to that department. The Burning Department is supervised by two leadmen. Both these departments are under the general supervision of the foreman of the Hull Department. All welding and burning performed at the yard is presently handled by the employees in the Welding and Burning Departments.⁷ These employees are engaged exclusively in welding and burning work. In the absence of a history of bargaining on a broader basis and since the welders and burners constitute a clearly definable and skilled group of employees and work under separate supervision, we are of the opinion that the welders and burners in the Company's employ can constitute an appropriate unit.⁸

On the other hand, however, the closely integrated operations of the shipyard are such that a single industrial unit would also be appropriate. We shall, therefore, make no determination of the appropriate unit or units at the present time but shall first ascertain the

³ 49 N. L. R. B. 555.

⁴ Although the I. A. M. was certified on June 11, 1943, it has not yet negotiated a collective bargaining agreement with the Company.

⁵ Cf. *Matter of Bethlehem-Alameda Shipyard, Inc.*, 53 N. L. R. B. 999.

⁶ Among these are the Electrical, Machinists, Pipe Fitters, Carpenters, and Sheet Metal Departments.

⁷ There was testimony that members of some of the other crafts had formerly done some welding.

⁸ *Matter of Houston Shipbuilding Corporation*, 46 N. L. R. B. 161; *Matter of United Boat Service Corporation*, 53 N. L. R. B. 992.

wishes of the employees involved. Upon the results of the elections hereinafter directed will depend, in part, our determination of the appropriate unit or units.

Although the record is not entirely clear as to the position of the I. A. M., it appears that the M. T. C. is requesting that we merge the existing I. A. M. unit into the industrial unit forthwith, thus rendering the employees in the Machinists Department eligible to participate in the election. It does not, however, appear that the I. A. M. would waive its rights under its previous certification in the event that the M. T. C. fails to win the election in the instant proceeding. We shall exclude from participation in the election hereinafter directed, all employees in the existing unit for which the I. A. M. has been certified. If a majority of the employees participating in the election indicate a desire to be represented by the M. T. C., the I. A. M. may by timely motion request that the unit which it now represents be merged into the larger unit.⁹

Although the Weldors seeks to include leadmen in the unit, the record shows that leadmen devote their time entirely to supervision and, as pointed out in our decision in the case involving the Machinists Department, leadmen in the shipbuilding industry are customarily considered to be supervisory employees and are therefore generally excluded from units of their subordinates. We shall exclude all leadmen from participation in the elections and from the unit or units which may hereafter be found appropriate.

The Company seeks to include in the industrial unit which it contends is appropriate, clerical employees and the employees in the drafting, timekeeping, and plant-protection departments. These are all categories which it is our normal practice to exclude from production units, especially where, as here, the union has made no effort to organize the employees therein. The Company seeks also to include supervisory employees. In conformance with our usual practice, we shall exclude supervisory employees from the unit.

We shall direct that elections by secret ballot be held among all welders, burners, and their respective helpers to determine whether they desire to be represented by the Weldors or by the M. T. C. for the purposes of collective bargaining, and among the remaining production and maintenance employees, excluding clerical employees, welders, burners, and their respective helpers, the employees in the Machinists' Department (except laborers), and the employees in the drafting, timekeeping, and plant-protection departments, to determine whether or not they desire to be represented by the M. T. C. for the purposes of collective bargaining. Pursuant to our usual practice, we shall direct that the employees eligible to vote in the election hereinafter directed shall be those employed by the Company during the pay-

⁹ Cf. *Matter of Armour and Company*, 40 N. L. R. B. 1333

roll period immediately preceding the date of the Direction of Elections herein, subject to the limitations and additions set forth in the Direction.

DIRECTION OF ELECTIONS

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 Waterman Steamship Corporation, Mobile, Alabama, elections 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 Fifteenth 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 of the Company who fall within the groups described below and who were employed by the Company during the pay-roll period immediately preceding the date of this Direction, including employees who did not work during such 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 before the election:

(a) All welders, burners, and helpers, excluding leadmen, quartermen, foremen, assistant foremen, and any other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, to determine whether they desire to be represented by United Brotherhood of Weldors, Cutters and Helpers of America, or by Mobile Metal Trades Council, A. F. of L., for the purposes of collective bargaining, or by neither;

(b) All other production and maintenance employees, excluding all employees of the Machinists' Department (except laborers), welders, burners, and their respective helpers, clerical employees, employees in the drafting, timekeeping, and plant-protection departments, leadmen, quartermen, foremen, assistant foremen, and any other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, to determine whether or not they desire to be represented by Mobile Metal Council, 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 Elections.