

In the Matter of BARDONS & OLIVER, INC. and INTERNATIONAL
ASSOCIATION OF MACHINISTS, DISTRICT 54, A. F. L.

Case No. 8-R-1333.—Decided January 6, 1944

Thompson, Hine & Flory, by *Mr. James W. Havighurst*, of Cleveland, Ohio, and *Mr. John H. Walker*, of Cleveland, Ohio, for the Company.

Horan & Bell, by *Mr. R. S. Horan*, of Cleveland, Ohio, for the Association.

Mr. Nick Charo, of Cleveland, Ohio, for the IAM.

Mr. Louis Cokin, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by International Association of Machinists, District 54, A. F. L., herein called the I. A. M., alleging that a question affecting commerce had arisen concerning the representation of employees of Bardons & Oliver, Inc., Cleveland, Ohio, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Louis Plost, Trial Examiner. Said hearing was held at Cleveland, Ohio, on December 8, 1943. At the commencement of the hearing the Trial Examiner granted a motion of Bardol Employees Association, Inc., herein called the Association, to intervene. The Company, the I. A. M., and the Association appeared at and participated in the hearing.¹ 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:

¹ Although International Union, United Automobile, Aircraft & Agricultural Implement Workers of America was served with Notice of Hearing, it did not appear.

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Bardons & Oliver, Inc., is an Ohio corporation with its principal place of business at Cleveland, Ohio, where it is engaged in the manufacture of turret lathes. During 1942 the Company purchased raw materials valued at about \$225,000, approximately 10 percent of which was shipped to it from points outside the State of Ohio. During the same period the Company sold products valued at about \$3,500,000, approximately 85 percent of which was shipped to points outside the State of Ohio. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

Bardol Employees Association, Inc., is an unaffiliated labor organization admitting to membership employees of the Company.

International Association of Machinists, District 54, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On November 5, 1943, the I. A. M. requested the Company to recognize it as the exclusive collective bargaining representative of the Company's employees. The Company did not reply to this request.

On February 10, 1943, the Company and the Association entered into an exclusive bargaining contract. The contract provides that it shall remain in effect until December 31, 1943. It further provides that it shall remain in effect for yearly periods thereafter unless at least 30 days' notice is given by either party thereto prior to any annual expiration date. Inasmuch as the I. A. M. made its claim prior to December 1, 1943, the date upon which the contract would have automatically renewed itself, we find that the contract does not constitute a bar to a determination of representatives at this time.

A statement of a Field Examiner of the Board, introduced into evidence at the hearing, indicates that the I. A. M. represents a substantial number of employees in the unit hereinafter found to be appropriate.²

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.

²The Field Examiner reported that the I. A. M. presented 130 authorization cards bearing apparently genuine signatures of persons whose names appear on the Company's pay roll of November 30, 1943, which contains the names of 388 persons. The Association did not present any evidence of representation, but relies upon its agreement as evidence of its interest in the instant proceeding.

IV. THE APPROPRIATE UNIT

We find, in agreement with a stipulation of the parties, that all production and maintenance employees of the Company, including watchmen, but excluding auxiliary military police, outside truck drivers, graduate engineers, clerical employees, 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, 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 means of 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 Bardons & Oliver, Inc., Cleveland, Ohio, 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 Eighth 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 they desire to be represented by Bardol Employees Association, Inc., or by International Association of Machinists, District 54, affiliated with the American Federation of Labor, for the purposes of collective bargaining, or by neither.