

In the Matter of ROY E. ROTH COMPANY and UNITED FARM EQUIPMENT  
AND METAL WORKERS OF AMERICA, C. I. O.

*Case No. 13-R-2110.—Decided January 6, 1944*

*Mr. Ben T. Reidy, of Rock Island, Ill., for the Company.  
Meyers & Meyers, by Mr. H. E. Baker, of Chicago, Ill., for the Union.  
Mr. Louis Cokin, of counsel to the Board.*

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by United Farm Equipment and Metal Workers of America, C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Roy E. Roth Company, Rock Island, Illinois, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before John R. Hill, Trial Examiner. Said hearing was held at Rock Island, Illinois, on November 29, 1943. The Company and the Union appeared at and participated in the hearing.<sup>1</sup> 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

Roy E. Roth Company is an Illinois corporation with its principal place of business at Rock Island, Illinois, where it is engaged in the manufacture of machine parts. During 1942 the Company purchased

<sup>1</sup> Although International Association of Machinists was served with Notice of Hearing, it did not appear.

raw materials valued in excess of \$50,000, over 50 percent of which was shipped to it from points outside the State of Illinois. During the same period the Company manufactured products valued in excess of \$100,000, about 37 percent of which was shipped to points outside the State of Illinois. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

## II. THE ORGANIZATION INVOLVED

United Farm Equipment and Metal 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

On October 12, 1943, the Union requested the Company to recognize it as the exclusive collective bargaining representative of the Company's employees. The Company refused this request.

A statement of the Regional Director, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found to be appropriate.<sup>2</sup>

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 urges that all production and maintenance employees of the Company, including assistant foremen, the millwright boss, inspectors, the shipping clerk, and the receiving clerk, but excluding foremen, the chief inspector, supervisory employees, office clerical employees, engineering staff, and guards, constitute an appropriate unit. The only controversy with respect to the unit concerns assistant foremen, the millwright boss, and the shipping clerk. The Union would include such employees in the unit, while the Company would exclude them.

The Company employs three persons classified by it as assistant foremen. They have the authority to effectively recommend the hiring and discharging of their subordinates. We find that the assistant foremen are supervisory employees and as such we shall exclude them from the unit.

The millwright boss is in charge of a crew of three to four men. The millwright boss receives about 25 percent more compensation than

<sup>2</sup> The Regional Director reported that the Union presented 37 application membership cards bearing apparently genuine signatures of persons whose names appear on the October 24, 1943, pay roll of the Company. There are approximately 107 employees in the appropriate unit.

his subordinates and assigns work to various employees. In addition, he recommends the discipline of his subordinates. Under the circumstances, we shall exclude the millwright boss from the unit.

The shipping clerk spends between 40 and 50 percent of his time performing clerical duties and in addition directs and supervises the work of one or more employees. He is directly responsible to the superintendent for the accuracy of shipping records, the arrangement of transportation facilities, tools, and small items of raw materials. The shipping clerk also recommends the hiring of temporary employees. Inasmuch as the duties of the shipping clerk are clerical and supervisory in nature, we shall exclude him from the unit.

We find that all production and maintenance employees of the Company, including inspectors and the receiving clerk, but excluding the engineering staff, office clerical employees, guards, assistant foremen, the millwright boss, the shipping clerk, foremen, the chief inspector, 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 Roy E. Roth Company, Rock Island, Illinois, 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 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 or not they desire to be represented by United Farm Equipment and Metal Workers of America, C. I. O., for the purposes of collective bargaining.