

In the Matter of EMBRY-RIDDLE COMPANY and TRANSPORT WORKERS
UNION OF AMERICA, C. I. O.

Case No. 10-R-1033.—Decided January 7, 1944

McKay, Dixon & De Jarnette, by *Mr. James A. Dixon*, of Miami, Fla., for the Company.

Mr. Jerry S. Lee, of Miami, Fla., 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 Transport Workers Union of America, C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Embry-Riddle Company, Miami, Florida, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Paul S. Kuelthau, Trial Examiner. Said hearing was held at Miami, Florida, on November 30, 1943. The Company and the Union 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:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Embry-Riddle Company operates flying schools in the State of Florida at which Army, Navy, and Civil Aeronautics Administration personnel are trained. The Company also operates an aircraft overhaul division consisting of an aircraft overhaul plant at Miami,

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

Florida, an instrument overhaul plant at Coral Gables, Florida, and an engine overhaul plant at northwest Miami. All planes repaired by the Company are owned either by the Army, Navy, or Civil Aeronautics Administration. The planes repaired by the Company are sent to it from the States of North Carolina, South Carolina, Georgia, and Florida. Repair parts used by the Company are furnished by the Army, Navy, and Civil Aeronautics Administration, and are obtained by them from points outside the State of Florida. The Company furnishes paint and dope for fabrics on the Civil Aeronautics Administration planes and during the year ending October 31, 1943, purchased \$25,000 worth of paint and dope, all of which was shipped to it from points outside the State of Florida. During the year ending October 31, 1943, the Company received about \$1,500,000 from its overhaul operations. We find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

Transport Workers Union 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 7, 1943, the Union requested the Company to recognize it as the exclusive collective bargaining representative of certain of the Company's employees. The Company refused this request until such time as the Union is certified by the Board.

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.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.

IV. THE APPROPRIATE UNIT

The Union requests a unit confined to the production and maintenance employees at the aircraft overhaul plant of the Company at Miami, including stock clerks, storeroom clerks, janitors, and sweepers, but excluding office employees, timekeepers, inspectors, super-

² The Regional Director reported that the Union presented 72 membership application cards bearing apparently genuine signatures of persons whose names appear on the Company's pay roll of October 9, 1943. There are approximately 140 employees in the appropriate unit.

visory employees, and guards. The Company urges that the unit be extended to include similar employees at its instrument overhaul plant at Coral Gables and its engine overhaul plant at northwest Miami.

There are approximately 40 employees at the instrument overhaul plant, 135 employees at the aircraft overhaul plant, and 200 employees at the engine overhaul plant. The 3 plants are about 3½ miles apart, but are under common supervision and management. The product of each of the 3 plants is different, and employees in each work different hours. There is no interchange of employees between the 3 plants. The Company maintains single personnel, purchasing, and accounting departments for all its operations. There is no evidence that the employees have evinced an awareness of identity of interests between the 3 groups of employees. The Union has not conducted any drive to secure members among the other plants, and has no membership there. Each of the plants is under the supervision of a different superintendent. In view of the extent of employee-organization and the absence of a substantial interchange of employees between the plants, we are of the opinion that the employees at the aircraft overhaul plant alone, at the present time, constitute an appropriate unit. The parties are agreed as to the categories of employees to be included in or excluded from the unit.

We find that all production and maintenance employees at the aircraft overhaul plant of the Company at Miami, including stock clerks, storeroom clerks, janitors, and sweepers, but excluding office employees, timekeepers, inspectors, guards, 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, 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 Embry-Riddle Company, Miami, Florida, 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 Tenth 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 Transport Workers Union of America, C. I. O., for the purposes of collective bargaining.