

In the Matter of CONSOLIDATED VULTEE AIRCRAFT CORP. (ELIZABETH CITY DIVISION) and INTERNATIONAL ASSOCIATION OF MACHINISTS (A. F. OF L.)

Case No. 5-R-1408.—Decided January 13, 1944

Mr. John J. Graebis, of Chicago, Ill., for the Company.

Mr. W. H. Cow and Mr. W. B. Jarvis, of Elizabeth City, N. C., for the Union

Mr. William C. Baisinger, Jr., of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by International Association of Machinists, A. F. of L., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Consolidated Vultee Aircraft Corporation, Elizabeth City, North Carolina, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Keith W. Blinn, Trial Examiner.¹ Said hearing was held at Elizabeth City, North Carolina, on November 17, 1943. The Company and the Union appeared and participated. All parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, to introduce evidence bearing on the issues and to file briefs with the Board. At the hearing the Company moved to dismiss the petition on the ground that the Union does not represent a majority of employees within the alleged appropriate unit. The Trial Examiner reserved ruling upon this motion for the Board. For reasons stated in Section III, *infra*, we hereby deny the motion. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Upon the entire record in the case, the Board makes the following:

¹ At the hearing the Trial Examiner granted the motions of the Company and the Union to amend the caption of the case to read as it appears above.

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Consolidated Vultee Aircraft Corporation, a Delaware corporation, operates 12 plants in several States of the United States. The only plant involved in this proceeding is the Elizabeth City Division plant located at Elizabeth City, North Carolina, at which plant the Company is engaged in the modification of airplanes. During the first 6 months of 1943, the Company purchased raw materials valued in excess of \$100,000, of which more than 95 percent was shipped from points outside the State of North Carolina to the Elizabeth City Division plant. During the same period the Company performed over \$250,000 worth of modifications on airplanes. After being modified each plane is flown from the Company's plant to points outside the State of North Carolina. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

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

III. THE QUESTION CONCERNING REPRESENTATION

By letter dated September 18, 1943, the Union requested the Company to recognize it as the exclusive bargaining representative of the employees within an alleged appropriate bargaining unit. On or about September 24, 1943, in answer to the Union's letter, the Company advised the Union that it refused to accord it such recognition unless certified by the Board.

A statement by a Field Examiner of the Board, 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

² The Field Examiner reported that the Union submitted 437 authorization cards bearing the apparently genuine original signatures of persons whose names appear on the Company's pay roll of October 8, 1943, which lists the names of 931 persons within the alleged appropriate unit.

We find the ground upon which the Company bases its motion to dismiss the petition to be without merit. We have repeatedly said that evidence of membership is required not as proof of the precise number of employees who desire to be represented by a labor organization, or as a basis for determining the appropriate representative, but simply to provide a reasonable safeguard against the indiscriminate institution of representation proceedings by labor organizations which have little or no membership in the unit claimed to be appropriate. See *Matter of H. G. Hill Stores, Inc., Warehouse*, 39 N. L. R. B. 874, and cases cited therein.

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 contends that all production and maintenance employees of the Company including chauffeurs, station wagon drivers, dispatchers, dispatchers' helpers, inspectors, mail clerks, the plant electrician, receiving clerks, shipping clerks, stock clerks and stockroom clerks, but excluding office and clerical employees, supervisory employees of the rank of assistant foremen and above, plant-protection employees, medical employees, timekeepers, time checkers, production follow-up staff and planning staff, comprise an appropriate bargaining unit. The Company while in substantial agreement with the Union contends that certain specific classifications of employees should be excluded from the bargaining unit. We shall discuss each of the disputed classifications below.

The operation of the Company

The Company's plant comprises an administration building, a hangar, and several smaller buildings located at an airplane base approximately 7 miles south of Elizabeth City, North Carolina. Included in the plant area are landing facilities for both land and sea planes. The entire plant is enclosed by a steel fence. The Company's operations consist of performing both major and minor modifications on airplanes for the United States Army and Navy. These modifications are performed by classifications of employees customarily engaged in airplane construction work, such as sheet metal workers, machinists, welders, pattern makers, electricians, carpenters, and general laborers.

Classifications of employees in dispute

Group Leaders

According to the undisputed testimony of the Company's director of industrial relations, the classification of group leader as used by the Company is synonymous with the classification of foreman. The five group leaders employed by the Company are paid a salary, have authority to hire and discharge the employees in their respective departments, and participate in the supervisory training program sponsored by the Company. Since these employees are clothed with the authority customarily possessed by supervisory personnel, we shall exclude group leaders from the unit.

Leadmen

The 70 leadmen employed by the Company occupy a position two steps below the group leaders in the plant's supervisory hierarchy. They are hourly paid employees who spend approximately 75 percent of their time supervising the work of from 3 to 10 production or maintenance employees. Each has authority to effectively recommend the promotion or discipline of employees working under him. He makes these recommendations to an assistant foreman, foreman, and group leader. Leadmen also attend the supervisory training program and receive from 5 to 10 cents an hour more than do the employees whom they supervise. Since these employees possess all of the indicia of supervisory employees, we shall exclude the leadmen from the appropriate unit.

Chauffeurs and Station Wagon Drivers

The Company employs four persons as chauffeurs and one employee as a station wagon driver. Employees in both classifications perform identical duties. They drive company-owned station wagons to provide livery service for company personnel between Elizabeth City and the Company's plant. Since it appears that their interests are closely allied with those of the other production and maintenance employees within the unit, we shall include the chauffeurs and station wagon drivers in the appropriate unit.

Dispatcher and Dispatcher Helpers

There are 21 persons classified as dispatchers and 21 persons classified as dispatcher helpers employed at the Elizabeth City plant. The duties of both classifications are substantially the same. They transport parts from the stockroom to the production line. Their work is almost exclusively manual labor. Since their work is closely connected with that of the production employees in the plant, we shall include both dispatchers and dispatcher helpers in the appropriate unit.

Inspectors

The inspectors, of whom there are 34 employed in the Company's plant, perform various types of inspection work. They examine work and materials and either pass or reject them in accordance with certain required standards. The inspectors have no part in formulating these standards nor do they have authority to recommend disciplinary action in the event that their examination discloses defective work or materials. Since their work brings them in close contact with the production employees, and since their interests are similar to those of the production employees, we shall include the inspectors in the appropriate unit.

Mail Clerks

The Company employs one mail clerk whose duty it is to pick up the Company's mail from the post office in Elizabeth City and deliver it to the Company's office. He also assists in sorting and opening the mail. However, it is not his duty to examine the contents or read any of the mail. Since his duty is essentially clerical in nature, we shall exclude the mail clerk from the appropriate unit.

Plant Electrician

The Company employs one person classified as plant electrician. This employee is in charge of the electrical maintenance work throughout the plant. He supervises the work of three or four employees and has the authority to recommend disciplinary action and promotions with respect to these employees. We are of the opinion that the plant electrician exercises sufficient supervisory authority to warrant his exclusion from the appropriate unit; we shall exclude him.

Receiving Clerks

The Company employs six receiving clerks who work in the stockroom located in the hangar. Their duties are to unload material as it is brought to the stockroom and to check the stock against the bills of lading. Approximately 50 percent of their time is spent performing physical labor. Since they spend at least half of their time performing manual labor in connection with unloading stock, we shall include the receiving clerks in the unit.

Shipping Clerks

The three shipping clerks employed by the Company work in the traffic room located in the hangar. Their duties consist of checking stock against shipping slips and packing and loading the stock for shipment. Approximately 50 percent of their time is spent in loading and packing stock. We shall include them in the appropriate unit.

Stock Clerks and the Stockroom Clerks

The Company employs 26 stock clerks and 1 stockroom clerk, who work in the stockroom in the hangar. Their duties are substantially the same. They place the stock on the shelves in the stockroom after it has been unloaded and checked by the receiving clerks. It is also their duty to issue the stock when it is requisitioned by the dispatchers. Approximately 75 percent of their time is devoted to physically handling the stock. We shall include stock clerks and stockroom clerks in the appropriate unit.

We find that all production and maintenance employees employed by the Company at its Elizabeth City, North Carolina, plant including chauffeurs, station wagon drivers, dispatchers, dispatcher helpers, in-

spectors, receiving clerks, shipping clerks, stock clerks and stockroom clerks, but excluding office and clerical employees, mail clerk, supervisory employees of the rank of leadmen and above, plant electrician, plant-protection employees, medical employees, cafeteria and hotel employees, engineering department employees, timekeepers and time checkers, production follow-up staff and the planning staff, 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 payroll period immediately preceding the date of our 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 Consolidated Vultee Aircraft Corporation (Elizabeth City Division), Elizabeth City, North Carolina, 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 Fifth 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 payroll period immediately preceding the date of this Direction, including employees who did not work during said payroll 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 International Association of Machinists, A. F. of L., for the purposes of collective bargaining.