

In the Matter of TRINITY VALLEY IRON & STEEL COMPANY and INTERNATIONAL ASSOCIATION OF MACHINISTS, LODGE 791, A. F. OF L.

Case No. 16-R-770.—Decided January 15, 1944

Messrs. Sidney L. Samuels and C. W. Williams, of Ft. Worth, Tex., for the Company.

Mr. C. L. Mulholland, of Dallas, Tex., Mr. L. M. Fagan, of Ft. Worth, Tex., and Mr. W. F. Heickman, of Houston, Tex., for the Union.

Mr. Max M. Goldman, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by the International Association of Machinists, Lodge 791, A. F. of L., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of the Trinity Valley Iron & Steel Company, Fort Worth, Texas, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Charles E. Persons, Trial Examiner. Said hearing was held at Fort Worth, Texas, on November 26, 1943. The Company and the Union appeared and participated. 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

Trinity Valley Iron & Steel Company, a Texas corporation, has its office and plant in Fort Worth, Texas, where it is engaged in the manufacture, sale, and distribution of steel and cast iron castings.

The principal raw materials used by the Company are pig and scrap iron, moulding sand, coke, and foundry supplies. From April 1, 1943, to November 1, 1943 the Company's purchases of such raw materials amounted in value to approximately \$100,000, of which \$2,000 worth was purchased from sources located outside the State of Texas. During the same period the Company's total sales amounted to over \$200,000, of which approximately \$40,000 represented sales outside the State of Texas.

We find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

International Association of Machinists, Local 791, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the Union as the exclusive bargaining representative of its employees until the Union has been certified by the Board in an appropriate unit.

A statement of the Field Examiner, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found 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

We find, in accordance with an agreement of the parties, that all production and maintenance employees of the Company, including the foundry clerk,² but excluding all clerical employees, 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.

¹The Field Examiner reported that the Union submitted 46 authorization cards, which bore apparently genuine original signatures; that the names of 38 persons appearing on the cards were listed on the Company's pay roll of November 13, 1943, which contained the names of 75 employees in the appropriate unit; and that the cards were dated as follows: 33 in September 1943, 12 in October 1943, and 1 undated.

In addition, the Union submitted the original cards in evidence.

²The foundry clerk spends about half of his time on work closely allied with the work of the production and maintenance employees. The parties agree and we find that he should be included in the production and maintenance unit.

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 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 Trinity Valley Iron & Steel Company, Fort Worth, Texas, 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 Sixteenth 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 those employees 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, Lodge 791, affiliated with the American Federation of Labor, for the purposes of collective bargaining.