

In the Matter of ALUMINUM COMPANY OF AMERICA and AMERICAN
FEDERATION OF LABOR

Case No. 21-R-2186.—Decided January 24, 1944

Armstrong, Kramer, Morrison and Roche, by Mr. J. E. Morrison, of Phoenix, Ariz., for the Company.

Mr. Paul M. Peterson, of Phoenix, Ariz., for the A. F. L.

Mr. R. W. Pasnick, of Phoenix, Ariz., for the C. I. O.

Mr. Arthur Ashby, of Phoenix, Ariz., for the I. U. M. M. S. W.

Mr. Robert Silagi, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by the American Federation of Labor, herein called the A. F. L., alleging that a question affecting commerce had arisen concerning the representation of employees of Aluminum Company of America, Phoenix, Arizona, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Charles M. Ryan, Trial Examiner. Said hearing was held at Phoenix, Arizona, on December 9, 1943. The Company, the A. F. L., International Union Aluminum Workers of America, CIO, herein called the C. I. O., and International Union of Mine, Mill & Smelter Workers, CIO, herein called the I. U. M. M. S. W., 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. At the hearing the I. U. M. M. S. W., moved to withdraw from the proceeding and to have its authorization cards added to the authorization cards presented by the C. I. O. The Trial Examiner granted the first motion, but reserved ruling on the second for the Board. Said motion is hereby granted. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded an opportunity to file briefs with the Board.

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

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FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Aluminum Company of America, a Pennsylvania corporation, operates a plant located at Phoenix, Arizona, which is owned by the Defense Plant Corporation, and leased to the Company. The Company produces aluminum extrusions and tubing at this plant. The chief raw material used by the Company consists of aluminum, which is purchased in monthly quantities in excess of one and one-half million pounds. More than 75 percent of the products produced at the plant is shipped to customers located outside the State of Arizona. The Company's entire production is destined for use in the war.

The Company concedes that it is engaged in interstate commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

American Federation of Labor is a labor organization admitting to membership employees of the Company.

International Union, Aluminum Workers of America, and International Union of Mine, Mill & Smelter Workers, are labor organizations affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company desires that the Board determine the conflicting claims of the A. F. of L. and the C. I. O. to exclusive recognition as the collective bargaining representative of its employees.

A statement of the Board agent introduced into evidence, and a statement by the Trial Examiner made at the hearing, indicate that the A. F. L. 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.

¹ The Field Examiner reported that the A. F. L. submitted 1,091 authorization and application for membership cards, 613 of which bore apparently genuine original signatures and corresponded with the names of persons appearing on the Company's pay roll of October 30, 1943, which contained the names of 1,920 employees in the appropriate unit. The cards were variously dated between June and November 1943. At the hearing the A. F. L. submitted additional evidence to the Trial Examiner purporting to show a further increase in its membership in the unit it claims appropriate.

I. U. M. M. S. W. submitted 134 application cards, 110 of which bore apparently genuine original signatures and corresponded with the names of persons appearing on the Company's afore-mentioned pay roll. The C. I. O. submitted 100 authorization cards, 80 of which bore apparently genuine original signatures which corresponded with the names of persons appearing on the Company's pay roll.

IV. THE APPROPRIATE UNIT

The parties agree that the following should comprise the unit appropriate for collective bargaining: all production and maintenance employees of the Company, including stores room employees, metal checkers, janitors, and labor gang, but excluding plant-protection employees, stores room clericals, time clerks, dispatcher clerks, technical, administrative, and clerical employees, and the cafeteria employees. The parties are in disagreement, however, with respect to the inclusion of the following categories of employees:

Leadmen: The Company employs about 15 leadmen whom it seeks to exclude from the unit as supervisory employees. Both unions seek their inclusion. Leadmen are working supervisors each of whom oversees the activities of from 3 to 10 workers. They are paid 6 to 10 cents per hour more than the highest paid employee under them. They have the authority to recommend the discharge or promotion of their subordinates and may, in the absence of their immediate supervisor, suspend an employee who is not in condition to work. Leadmen also participate in grievance meetings on behalf of the Company. Since leadmen appear to be supervisory employees, as hereinafter defined, we shall exclude them from the appropriate unit.

Inspectors: Both unions would include inspectors in the appropriate unit, while the Company would exclude them. The Company employs 35 inspectors who examine extrusions and tubing for quality and surface finish. They are paid a wage rate higher than that received by the average production employee, and are supervised by a head division inspector. They work in the areas immediately adjacent to the shipping room so that all finished materials coming off the production line and being readied for shipment pass under their scrutiny. In addition to company inspectors, there are a number of Navy inspectors stationed in the plant who double check the articles prior to shipment. The men selected for inspection jobs receive careful training in their duties. Defects detected by them are reported to the head of the inspection department who decides whether the article is capable of being repaired or must be scrapped. Although the article can be traced and the cause corrected, inspectors have no way of knowing which particular employee or group of employees produced a defective item. Because of the recently increased rigidity of the inspection standards set by the Navy, all articles which are in the least doubtful are required to be rejected. This, the Company claims, creates a conflict of interest between the production employees, who try to get all their work approved, and the inspectors, whose duty it is to reject everything which is questionable. The record contains nothing to indicate that the inclusion of inspectors in

the same unit with production employees will subject the former to pressures which would cause them to be derelict in their duties. Should the performance of an employee deteriorate, the Company always has recourse to its normal disciplinary authority to insure the maintenance of its standards of work.² The work of the inspectors is an integral part of the production process. We shall include inspectors in the unit.

Die checkers: The unions desire to have the die checkers included in the unit, whereas the Company desires to have them excluded. There are 3 or 4 die checkers whose duties consist of seeing that the shape and condition of the dies are in perfect order to produce the desired shape and surface quality on the extrusions. They examine the extruded product and, where necessary, make recommendations to the tool room pertaining to the change or repair of dies. Die checkers receive 10 to 15 cents per hour more than the average production employee, however, their wage rates are lower than that of machinists who are part of the unit. Die checkers work with 2 metal checkers, i. e., men who perform the more routine operations of checking the extrusions and dies. It is not contended that die checkers are leadmen because they exercise some degree of supervision over the metal checkers. The Company bases its contention for the exclusion of die checkers on the same ground that it urges as a basis for excluding the inspectors. Die checkers, it claims, are "control men" who should be independent of all influences which might impair the free exercise of their judgment. For the same reason that we are including inspectors, we shall also include die checkers in the appropriate unit.

Dispatchers: The C. I. O. seeks to include dispatchers while the Company and the AFL would exclude them. The Company employs about 25 dispatchers, classified as administrative employees, who work under division planners of either extrusions or tubings. The division planner receives the orders allocated to his division and makes up schedules for the sequence in which the orders shall go into production. Dispatchers and dispatcher clerks follow up and route the material for the orders through the production operations. It is the dispatcher's job to see that there is no wasted time in getting materials from one operation to another. The dispatcher goes through the plant obtaining information regarding the location of orders in their various stages of manufacture and seeing whether the orders move according to schedule. This information is furnished to the dispatcher clerk who records it and transmits it to the division planner. In view of the great similarity of work between that performed by the dispatchers and the dispatcher clerks, who are ex-

² See *Matter of Dravo Corporation*, 52 N. L. R. B. 322.

cluded from the unit by agreement, we shall also exclude the dispatchers.³

Timekeepers: The Company and the A. F. L. would exclude timekeepers, while the C. I. O. would include them. The Company employs about 35 timekeepers who check the total time an employee spends on the job and who also record the amount of time that is spent on each operation of a particular job. The former record is used in making up the pay roll, while the latter is used by the accounting department to estimate costs. Timekeepers report to the office manager and are a part of the general office division of the plant. The Company and the A. F. L. would exclude timekeepers on the ground that they are administrative employees who perform clerical jobs. We find that timekeepers in the instant plant perform clerical duties and, in conformity with the parties' stipulation to exclude all clerical employees, we shall exclude timekeepers from the appropriate unit.

Although all the parties are in agreement with respect to the inclusion of janitors, the Company would exclude the janitor who works in the Company's office. The exclusion of this employee is sought on the ground that he is required to burn all papers and documents which are discarded in the Company's office. Because he is required to dispose of confidential documents in this manner, the Company would exclude him from the unit. Since the office janitor's contact with confidential matters, including those possibly relating to labor relations, is at best a very tenuous one, we see no reason for treating him any differently from any of the other janitors employed by the Company.⁴ The parties are likewise agreed that plant-protection employees, including firemen, should be excluded from the unit. However, the A. F. L. seeks the inclusion of "undeputized watchmen," i. e., watchmen not deputed by the sheriff of the county. The record shows that all guards of the Company are members of the Auxiliary Military Police and that there are no individuals on the Company's pay roll such as the A. F. L. describes. Consequently, this issue need not be determined.

We find that all production and maintenance employees of the Company, including inspectors, die checkers, stores room employees, metal checkers, janitors, and labor gang, but excluding leadmen, and any other supervisory employees with authority to hire, promote, discipline, discharge, or otherwise effect changes in the status of employees, or effectively recommend such action, timekeepers, dispatchers, dispatcher clerks, plant-protection employees, stores room clericals, time

³ The testimony of the works manager of the Company indicates that the work of a dispatcher in the instant plant is very similar to that done by an expediter in another plant of the Company, where the expediters were excluded from the unit. See *Matter of Aluminum Company of America*, 52 N. L. R. B. 1040; also *Matter of Botany Worsted Mills*, 53 N. L. R. B. 920.

⁴ See *Matter of Phillips Petroleum Company*, 48 N. L. R. B. 934.

clerks, technical, administrative, and clerical employees, and the cafeteria employees, 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

The A. F. L. requests certification upon the record, whereas the Company and the C. I. O. desire an election. In accordance with our normal practice 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 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 Aluminum Company of America, Phoenix, Arizona, 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 Twenty-first 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 they desire to be represented by American Federation of Labor or by International Union, Aluminum Workers of America, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining, or by neither.