

IN THE MATTER OF PARKER APPLIANCE CO. and UNITED ELECTRICAL,
RADIO & MACHINE WORKERS OF AMERICA, CIO

Case No. 21-R-2212.—Decided January 27, 1944

O'Melveny & Myers, by Messrs. *W. B. Carman, Jr.*, and *M. E. Atkinson*, of Los Angeles, Calif., for the Company.

Mr. Martin Hourihan, of Los Angeles, Calif., for the United.

Mr. R. V. Ickes, of Los Angeles, Calif., for the Machinists.

Mr. William Strong, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by United Electrical, Radio & Machine Workers of America, herein called the United, alleging that a question affecting commerce had arisen concerning the representation of employees of Parker Appliance Co., Los Angeles, California, herein called the Company, the National Labor Relations Board, herein called the Board, provided for an appropriate hearing upon due notice before William B. Esterman, Trial Examiner. Said hearing was held at Los Angeles, California, on December 16, 1943. The Company, the United, and the International Association of Machinists, Local 311, herein called the Machinists, appeared at and participated in the hearing. 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

Parker Appliance Co. is an Ohio corporation, maintaining its main offices at Cleveland, Ohio, and branch offices and service divisions in

several States and in Canada. It operates plants in Cleveland, St. Claire, Michigan and Los Angeles, California. At the Los Angeles plant, with which we are here concerned, the Company produces aircraft parts which it supplies to various major aircraft manufacturers in and outside of California. Between July 1 and November 30, 1943, about 80 percent of the raw materials used at the Los Angeles plant was shipped from points outside the State of California. During the same period at least 20 percent of the finished products from this plant was sent to points outside that State. The Company admits that it is engaged in commerce within the meaning of the Act.

II. THE ORGANIZATIONS INVOLVED

United Electrical, Radio & Machine Workers of America, affiliated with the Congress of Industrial Organizations, and International Association of Machinists, Local 311, affiliated with the American Federation of Labor, are labor organizations admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

In November 1943 the United requested the Company to recognize it as the exclusive collective bargaining representative of the Company's employees. The Company then, and at all times since, has refused to accord recognition to the United until such time as the Board certifies the United as the exclusive representative.

A statement of a Field Examiner of the Board, introduced in evidence, indicates that the United and the Machinists represent substantial numbers of the employees in the unit hereinafter found to be 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

The United requests a unit consisting of all the production and maintenance employees at the Company's Los Angeles plant, including leadmen and janitors, but excluding office and clerical employees, executives and foremen with the right to hire or discharge, or to recom-

¹ The Field Examiner reported that the United presented 56 authorization cards bearing apparently genuine signatures, of which 50 are the names of persons whose names appear on the Company's pay roll of November 23, 1943. The Field Examiner further reported that the Machinists presented 29 authorization cards bearing apparently genuine signatures, of which 21 are the names of persons whose names appear on the Company's pay roll of November 23, 1943. There are approximately 150 employees in the appropriate unit.

mend either. The Machinists concurs in this request. The Company takes no position on inclusions.

The record does not clearly delineate the categories of persons in the Company's employ who possess powers which would place them within our customary definition of supervisory employees, set forth below. All parties, however, desire employees who fall within that category excluded from the unit.

Both the United and the Machinists seek the exclusion of two persons who are employed by the Company at special tasks on the premises of another concern, about 3 miles from the Company's plant, primarily because of their physical separation from the other employees. The Company takes no position as to their proposed exclusion. Both men spend in excess of 95 percent of their time off the Company's premises, merely returning to the Company's plant for consultation. Since both Unions desire their exclusion and the Company is neutral in the premises, we shall exclude them from the unit.

We find that all production and maintenance employees of the Company at its Los Angeles plant, including leadmen and janitors, but excluding office and clerical employees, executives, foremen, and 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 Parker Appliance Co., Los Angeles, California, 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 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 they desire to be represented by United Electrical, Radio & Machine Workers of America, CIO, or by International Association of Machinists, Local 311, AFL, for the purposes of collective bargaining, or by neither.