In the Matter of MINNESOTA MINING AND MANUFACTURING COMPANY (COPLEY PLANT) *and* DISTRICT 50, UNITED MINE WORKERS OF AMERICA

Case No. 8–R–1346.—Decided January 28, 1944

Mr. Robert H. Tucker, of St. Paul, Minn., for the Company.

Mr. Stanley Denlinger, of Akron, Ohio, *Mr. Everitt Williams*, of Barberton, Ohio, and *Mr. William Thomas*, of Cleveland, Ohio, for District 50.

Mr. T. C. Deshloff, of Akron, Ohio, for the A. F. of L.

Mr. William Strong, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by District 50, United Mine Workers of America, herein called District 50, alleging that a question affecting commerce had arisen concerning the representation of employees of Minnesota Mining and Manufacturing Company, Akron, Ohio, at its Copley, Ohio, plant, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Arthur Stark, Trial Examiner. Said hearing was held at Akron, Ohio, on December 28, 1943. The Company, District 50, and Federal Labor Union, #20191 (AFL), herein called the A. F. of L., 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 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

Minnesota Mining and Manufacturing Company, a Delaware corporation having its main offices at St. Paul, Minnesota, operates plants

at Detroit, Michigan, St. Paul, Minnesota, Wausau, Wisconsin, and Copley, Ohio. We are here concerned only with the Copley plant, at which the Company manufacturers roof granules, silica, sands, oleum, color pigments, chrome, and iron oxide. During 1943 the Company used raw materials at its Copley plant valued in excess of $100,000, of which at least 30 percent was brought in from sources outside the State of Ohio. During that same period at least 75 percent of the products manufactured at the Copley plant, totally valued at more than $100,000, was shipped to points outside the State of Ohio. The Company concedes that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

District 50, United Mine Workers of America, and Federal Labor Union No. 20191, affiliated with the American Federation of Labor, are labor organizations admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On October 18, 1943, District 50 informed the Company that it represented a majority of the Company's production and maintenance employees, and asked to meet with it in order to negotiate an agreement. On October 21, 1943, the Company replied rejecting the request of District 50 on the ground that the Company was a party to a collective agreement with the A. F. of L., which would not expire until January 30, 1944. The A. F. of L. urges the contract as a bar to the instant proceeding.

The contract, in evidence, was executed on February 1, 1943, and accords exclusive recognition to the A. F. of L. The contract provides that it shall remain in effect until January 30, 1944, and shall thereafter remain in effect for yearly periods unless notice is given by either party thereto prior to December 1 preceding any annual expiration date of the contract. Inasmuch as District 50 made its majority representation claim prior to December 1, 1943, the date upon which the contract would have automatically renewed itself, we find that the contract does not constitute a bar to a determination of representatives at this time.

A statement of the Trial Examiner, introduced into evidence at the hearing indicates that the Union represents a substantial number of employees in the unit hereinafter found to be appropriate.[1]

[1] The Trial Examiner reported that District 50 presented 170 membership application cards bearing apparently genuine signatures, of which 125 were the names of persons whose names appear on the Company's pay roll of December 23, 1943 There are approxi-

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 substantial agreement with a stipulation of the parties, that all production and maintenance employees at the Copley plant of the Company, including non-militarized watchmen, but excluding clerical employees, militarized guards and supervisors and any 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 Minnesota Mining and Manufacturing Company, Copley plant, Copley, Ohio, 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 Eighth 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

mately 183 employees in the appropriate unit The A. F. of L. did not present any evidence of representation, but relies upon its agreement as evidence of its interest in the instant proceeding

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 District 50, United Mine Workers of America, by Federal Labor Union, Local 20191, AFL, for the purposes of collective bargaining, or by neither.