

In the Matter of THE BALDWIN COMPANY *and* BALDWIN EMPLOYEES
ASSOCIATION

Case No. 9-R-1178.—Decided February 2, 1944

Frost & Jacobs, by *Mr. Cornelius J. Petzhold*, of Cincinnati, Ohio,
for the Company.

Messrs. Joseph A. Roach and *Lawrence G. Schroeder*, of Cincinnati,
Ohio, for the Association.

Mr. Peter G. Noll, of Cincinnati, Ohio, for the UAW-AFL.

Messrs. Martin G. Finn and *Jack Methard*, of Cincinnati, Ohio, for
the UAW-CIO.

Mr. William R. Cameron, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by Baldwin Employees Association, herein called the Association, alleging that a question affecting commerce had arisen concerning the representation of employees of The Baldwin Company, Cincinnati, Ohio, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before John W. Coddair, Jr., Trial Examiner. Said hearing was held at Cincinnati, Ohio, on December 10, 1943. The Company, the Association, International Union, United Automobile Workers of America, A. F. of L., herein called the UAW-AFL, and United Automobile, Aircraft and Agricultural Implement Workers of America, C. I. O., herein called the UAW-CIO, appeared, participated, and 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 UAW-CIO moved for dismissal of the petition. For reasons appearing hereinafter the motion is hereby denied. 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:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

The Baldwin Company, an Ohio corporation having its principal place of business at Cincinnati, Ohio, is engaged in the manufacture of aircraft parts made of plywood. The chief raw material used by the Company is plywood, of which more than 90 percent is obtained from points outside the State of Ohio. The annual sales of the Company are in excess of one million dollars. Approximately 3 percent of the finished products of the Company is shipped to points outside the State of Ohio, and 97 percent is delivered to contractors, with whom the Company holds subcontracts, located within the State of Ohio. The Company is engaged entirely in war production. The Company concedes for the purpose of this proceeding that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

Baldwin Employees Association is an unaffiliated labor organization admitting to membership employees of the Company.

International Union, United Automobile Workers of America is a labor organization affiliated with the American Federation of Labor; admitting to membership employees of the Company.

United Automobile, Aircraft and Agricultural Implement Workers of America is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On July 19, 1942, the Association executed a contract with the Company which, by its terms, was effective until July 19, 1943, and thereafter until modified or amended by the parties thereto. On July 16, 1943, the Association notified the Company by letter that, as representative of a majority of the Company's employees, it desired to negotiate a new contract. The Company replied, by letter dated July 30, 1943, that several claims of representation had been made, and referred the Association to the Board for Certification.

Statements of the Field Examiner, introduced in evidence, indicate that the Association and the UAW-AFL each represents a substantial number of employees in the unit hereinafter found to be appropriate.¹

¹ The Field Examiner reported that the Association submitted 1,495 application for membership cards of which 556 appeared to contain the genuine original signatures of persons whose names appeared on the Company's pay roll, containing 1,040 names. Five of the 556

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 parties agree that the unit comprises all production and maintenance employees of the Company, including group leaders, but excluding superintendents, assistant superintendents, foremen, chief inspector, assistant chief inspector, timekeepers, guards, watchmen, truck drivers, office and clerical employees, and other supervisory employees. Dispute exists, however, concerning leadmen, dispatchers, and inspectors. The Association seeks to include, and the UAW-AFL to exclude, these disputed classifications. The Company would include the dispatchers and inspectors, but takes no position with respect to the leadmen.

The Association has, since 1937, had a continuous series of contracts with the Company, of which the most recent is that hereinbefore mentioned, executed on July 19, 1942. The classifications here in dispute have been represented by the Association, both in respect to these collective bargaining agreements and in the handling of grievances. The UAW-AFL contends, however, that the dispatchers and inspectors are not production or maintenance employees such as to be appropriately included within the unit, and that the leadmen are supervisory employees such as we customarily exclude.

The leadmen, of whom there are approximately 12 or 15, work with groups of from 6 to 50 employees, and are responsible for getting out production. They are experienced and skilled workmen who observe and assist the less experienced employees with whom they work. They do a substantial amount of manual work themselves, and, similarly to other production and maintenance employees, are paid on an hourly basis, though at a somewhat higher rate, receive overtime pay, and are on the factory pay roll.² They do not have authority to hire or discharge employees. It was stated, however, by a former leadman

cards were dated prior to 1937, 216 were dated in 1937, 164 were dated from 1938 through 1942, and 171 were dated in 1943. In addition to the foregoing, 40 undated cards, and 10 containing printed signatures corresponded to names on said pay roll.

In a statement submitted subsequent to the hearing, pursuant to agreement of the parties, the Field Examiner further reported that the UAW-AFL submitted 654 application and authorization cards, 574 being dated from January through July 1943, 2 in September 1943, and 78 undated, of which 198 appeared to bear the genuine original signatures of persons whose names are on the Company's pay roll of August 15, 1943, within the unit claimed by the petitioner to be appropriate.

It was agreed by the parties at the hearing that subsequent thereto the UAW-CIO might submit evidence of representation of employees within the production and maintenance unit for the purpose of a check by the Board, and that a statement of the results of such check might be made for the record. No evidence of such representation, however, was submitted by the UAW-CIO.

² The Company maintains three pay rolls—of office, supervisory and factory employees, respectively

at the hearing that, as a leadman, he had recommended the transfer of employees to other jobs. It appeared, however, that these instances did not involve a recommendation, but merely a report upon the qualifications or aptitude of employees assigned to his group, and that all work assignments and transfers are solely at the instance and discretion of the superintendent. The leadmen attend such meetings of the supervisors as relate to production schedules, but other supervisors' meetings are not attended by them. Inasmuch as the leadmen do not appear to be supervisors within the meaning of our customary definition, we shall include them in the unit.³

There are eight or nine dispatchers under the direction of a supervisor in the production control department, whose duties are to coordinate the flow of materials to the various departments. Their duties are those of the employee classification sometimes known as "stock chasers." They are likewise hourly paid, are on the factory pay roll, and have heretofore been bargained for as a part of the production unit. We shall include the dispatchers.⁴

It is the duty of inspectors to examine incoming material and the Company's product in all stages of production in order to maintain its quality. Although they are under the separate supervision of a chief and assistant chief inspector and are not engaged in manual labor, they work in all departments of the plant in close proximity with the production workers. They are also hourly paid, and their department is carried as a division of the factory pay roll. In view of their common interests with the production workers, we shall include the inspectors.⁵

We find that all production and maintenance employees of the Company, including leadman, dispatchers, inspectors, and group leaders, but excluding superintendents, assistant superintendents, foremen, chief inspector, assistant chief inspector, timekeepers, guards, watchmen, truck drivers, office and clerical employees, and all 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 an election by secret ballot among the em-

³ The group leaders, concerning whose inclusion the parties are in agreement are, similarly to the leadmen, merely more skilled and experienced employees who work with a small group of people on one operation or a closely related number of operations.

⁴ See *Matter of Aluminum Company of America*, 44 N. L. R. B. 490.

⁵ See *Matter of Westinghouse Electric & Manufacturing Company*, 45 N. L. R. B. 826.

ployees 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.⁶

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 The Baldwin Company, Cincinnati, 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 Ninth 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 Baldwin Employees Association, or by International Union, United Automobile Workers of America, affiliated with the American Federation of Labor, for the purposes of collective bargaining, or by neither.

⁶ Since the UAW-CIO, although afforded an opportunity has failed to submit any evidence of interest by way of representation among the employees in the unit herein found appropriate, we shall not place the name of the UAW-CIO on the ballot in the election hereinafter directed.