

In the Matter of WILLIAMSON HEATER COMPANY and UNITED STEEL-
WORKERS OF AMERICA

Case No. 9-R-1265.—Decided February 4, 1944

Mr. Thomas E. Shroyer, of Cincinnati, Ohio, for the Board.

Messrs. Joseph S. Graydon and William W. McKenzie, of Cincinnati, Ohio, for the Company.

Mr. Julius Holzberg, of Cincinnati, Ohio, for the U. S. A.

Mr. Peter G. Noll, of Cincinnati, Ohio, for the U. A. W.-A. F. L.

Mr. Leon Novak, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Steelworkers of America, C. I. O., herein called the U. S. A., alleging that a question affecting commerce had arisen concerning the representation of employees of the Williamson Heater Company, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before William P. Webb, Trial Examiner. Said hearing was held at Cincinnati, Ohio, on December 7, 1943. The Company, the U. S. A., and International Union, United Automobile Workers of America, A. F. L., herein called the U. A. W.-A. F. L., 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 full 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

Williamson Heater Company, incorporated under the laws of the State of Ohio, has its principal office and place of business at Cin-

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cinnati, Ohio, where it is engaged in the manufacture of warm air furnaces, furnace pipe and fittings, and aircraft parts. During the year 1942, the Company's gross sales amounted to approximately \$2,000,000, approximately 65 percent of which was shipped to points outside the State of Ohio. During the same period, approximately 80 percent of the raw materials purchased by the Company, was shipped to it from points outside the State of Ohio.

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

II. THE ORGANIZATIONS INVOLVED

United Steelworkers of America, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

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

III. THE QUESTION CONCERNING REPRESENTATION

Prior to the filing of its petition herein, the U. S. A. made unsuccessful efforts to communicate with the Company for the purpose of requesting recognition as the bargaining representative of the Company's employees. While the U. S. A. was making these efforts, the Company was informed, by an agent of the Board, that the U. S. A. was claiming to represent a majority of its employees and was seeking recognition. The Company, at that time, and thereafter at the hearing herein, refused to grant the U. S. A.'s request, stating that it did not believe the unit sought by the U. S. A., to be appropriate.

Statements of the Field Examiner, introduced into evidence, indicate that the U. S. A. 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

The U. S. A. requests a unit confined to the production and maintenance employees at the Oakley plant of the Company, excluding

¹ The Field Examiner stated that the U. S. A. submitted 353 cards, 234 of which bore the apparently genuine signatures of employees in the appropriate unit whose names appear on the Company's pay roll of October 23, 1943, after deletion therefrom of persons who left the Company's employ subsequent to that date. The aforesaid pay roll contains the names of 700 persons in the appropriate unit.

The Field Examiner also stated that the U. A. W.-A. F. L. submitted 27 cards, 18 of which bore the apparently genuine signatures of employees in the appropriate unit whose names appear on the Company's pay roll of December 8, 1943. We shall afford the U. A. W.-A. F. L. a place on the ballot.

supervisors, assistant supervisors, clerical employees, timekeepers, checkers, inspectors, time-study employees, guards, watchmen, and employees with authority to hire and discharge. The Company urges that the unit be extended to include, in addition to those at its Oakley plant, all hourly paid employees, including those in the categories sought to be excluded by the U. S. A., at its Fifth Street plant and at its warehouse. The U. A. W.-A. F. L. seeks an appropriate unit consisting solely of the aircraft department at the Oakley plant of the Company, excluding supervisory employees with authority to hire and discharge, and clerical employees, but including factory clerks.

At its Oakley plant, where there are employed approximately 800 employees, the Company is chiefly engaged in the manufacture of furnaces. At its Fifth Street plant, located approximately 7 miles from Oakley, the Company employs approximately 50 employees whose functions deal chiefly with the distribution, installation, and repair of furnaces. The Company has warehouse facilities at both plants but, in addition, operates a warehouse in another building, located 1 mile from the Fifth Street plant, where it employs 6 truck drivers and order pickers, whose functions are confined chiefly to the filling of local orders.

All of the operating departments of the Company, which are directly involved in the manufacture of furnaces, are located at Oakley. Among them are the foundry, the scrap, sheet metal, cleaning and assembly, and maintenance departments. It thus appears that the flow of operations, for the fabrication of the Company's product, is initiated and completed at Oakley. The Fifth Street plant, on the other hand, is confined, in the main, to retail and wholesale sales operations for local consumption. At this plant, the majority of the employees, who are under the supervision of the retail sales manager, are engaged in the installation or repair of furnaces already sold. Although some of the remaining employees perform some functions similar to those performed by a number of employees at Oakley, these operations, which include the fabrication of special fittings and the assembly of old models of furnaces, are part of, and appurtenant to, the sales operations of the Fifth Street plant. There is, normally, no interchange of employees between Oakley and Fifth Street. The supervision of the Oakley plant, under a plant manager, does not extend to the Fifth Street plant. Operations at the latter plant are in charge of the managers supervising local retail and wholesale operations. Some of these operations, although at one time performed at Oakley, were assertedly removed therefrom, in order not to interrupt the flow of production at that plant. The U. S. A. has not conducted any drive to secure members either among the employees at the Fifth Street plant or the warehouse.

In view of the foregoing, we are of the opinion, that the Oakley plant of the Company constitutes a separate appropriate unit.

We turn now to a consideration of the request of the U. A. W.-A. F. L., for an appropriate unit consisting solely of the aircraft department at the Oakley plant. As we have noted, this plant operates through various departments engaged in the manufacture of furnaces. The Company has recently added, at the Oakley plant, a new department, consisting of approximately 175 employees, who are engaged in the fabrication of aircraft parts. The record indicates that there is considerable integration of functions between the aircraft department and other departments of the Oakley plant. Both the aircraft and the sheet metal departments at Oakley perform functions, the initial steps of which require the handling of sheet metal. The operations of the sheet metal department involve shearing, cutting, riveting, and assembly. Similar work is also performed in the aircraft department. There is an interchange of employees between these two departments. Furthermore, equipment for all of the departments at the Oakley plant, including the aircraft department, is purchased by the Company's general purchase department and is maintained by a central maintenance division. The supervisor of the aircraft department, just as the supervisors of all of the other departments at the Oakley plant, is responsible to the general manager of the entire plant. In addition, the aircraft department sometimes engages in fabricating operations for other departments.

To support its claim of separability, the U. A. W.-A. F. L. points to the fact that the aircraft department is located in a separate building. This contention possesses little cogency in light of the fact that various operations of the Company are also independently located in a number of buildings, which make up the Oakley plant. Furthermore, it appears that the building in which the aircraft department is located also contains the Company's general accounting office, the office of the maintenance division, and a cafeteria available to employees of other departments. We are of the opinion, and find, that the aircraft department does not constitute a separate appropriate unit.

As stated above, the Company seeks to include in the appropriate unit, on the ground, solely, that they are hourly paid employees, those categories sought to be excluded by the U. S. A. We are of the opinion that, in the main,² these categories should be excluded, in accordance with our usual practice.

We find that all production and maintenance employees at the Oakley plant of the Company, including inspectors, but excluding

² The record indicates that there are inspectors whose work is not of a supervisory nature. We shall include such inspectors in the appropriate unit.

supervisors, assistant supervisors, clerical employees, timekeepers, checkers, time-study employees, guards, watchmen, 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.

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 Williamson Heater Company, 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 those employees who have since quit or been discharged for cause and who have not been rehired or reinstated prior to the date of the election, to determine whether they desire to be represented by the United Steelworkers of America, affiliated with the Congress of Industrial Organizations, 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.

CHAIRMAN MILLIS took not part in the consideration of the above Decision and Direction of Election.