

In the Matter of ALLIS-CHALMERS MANUFACTURING COMPANY and
UNITED ELECTRICAL, RADIO & MACHINE WORKERS OF AMERICA, CIO

Case No. 9-R-1308.—Decided February 7, 1944

Mr. W. J. McGowan, of Milwaukee, Wis., for the Company.

Mr. Ralph D. Marcus, of Cincinnati, Ohio, for the Union.

Mr. William Strong, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Electrical, Radio & Machine Workers of America, CIO, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Allis-Chalmers Manufacturing Company, Norwood, Ohio, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Thomas E. Shroyer, Trial Examiner. Said hearing was held at Cincinnati, Ohio, on January 6, 1944. The Company and the Union 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 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

Allis-Chalmers Manufacturing Company, a Delaware corporation, operates plants in various parts of the United States. We are here concerned with the Norwood, Ohio, plant, at which the Company produces electric motors and hydraulic pumps. Most of the raw materials used at the Norwood plant come from points outside the State of Ohio. Over 80 percent of the finished products of the Nor-

wood plant, totally valued in excess of \$10,000,000, ultimately reaches destinations 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 ORGANIZATION INVOLVED

United Electrical, Radio & Machine Workers of America, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the Union as the exclusive bargaining representative of the Company's plant-protection employees until the Union has been certified by the Board in an appropriate unit.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Union 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 Union seeks a unit consisting of all the militarized plant-protection employees including corporals, but excluding the chief and sergeants. The Company contests the appropriateness of this unit, contending that the work of these employees is of a confidential nature and that they are acting as representatives and in the interests of the management. It also in effect questions the advisability of allowing militarized plant-protection employees to bargain collectively. The Company further points to the fact that the Union is the certified collective bargaining representative of the production employees, in a separate unit from which, *inter alia*, watchmen and plant-protection employees were excluded by the Board.² The Company questions the propriety of the same bargaining agent representing the militarized plant-protection employees as well as the Company's other employees. We see no reason to deny to the militarized plant-protection employees the right to collective bargaining under the Act. We have heretofore considered the problems which arise in situations involving milita-

¹ The Acting Regional Director reported that the Union submitted 18 membership application cards all of which bore apparently genuine original signatures; that the names of all persons appearing on the cards were listed on the Company's current pay roll, which contained the names of 21 employees in the appropriate unit.

² *Matter of Altha-Chalmers Manufacturing Co.*, 43 N. L. R. B. 255.

rized plant-protection employees.³ Our conclusion that they should not be denied the right to bargain collectively in a separate unit is unaltered.

The record does not indicate with sufficient clarity the duties and powers of corporals.⁴ We shall include or exclude them dependent upon whether they fall within our usual definition of supervisory employees.

We find that all militarized plant-protection employees of the Company, excluding the chief and sergeants, and all other supervisory employees who have 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 Allis-Chalmers Manufacturing Company, Norwood, 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

³ See *Matter of Dravo Corporation*, 52 N. L. R. B. 322.

⁴ The Company employed no corporals at the time of the hearing, although it did so previous thereto and will do so again in the future.

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 or not they desire to be represented by **United Electrical, Radio & Machine Workers of America**, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.