

In the Matter of E. W. BLISS COMPANY (THE TOLEDO MACHINE & TOOL DIVISION) PLANT No. 2 and INTERNATIONAL UNION, UNITED AUTOMOBILE, AIRCRAFT & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, LOCAL No. 12, UAW-CIO

Case No. 8-R-1353.—Decided February 7, 1944

Mr. H. F. Smith, of Toledo, Ohio, for the Company.

Mr. David A. Guberman, *Mr. Thomas Burke*, and *Mr. Cyrus Martin*, all of Toledo, Ohio, for the UAW-CIO.

Mr. Alfred Stencel and *Mr. Otto W. Brach*, both of Toledo, Ohio, for the Molders.

Mr. Robert O'Brien, of Toledo, Ohio, for the Pattern Makers.

Mr. William Strong, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by International Union, United Automobile, Aircraft & Agricultural Implement Workers of America, Local No. 12, UAW-CIO, herein called the UAW-CIO, alleging that a question affecting commerce had arisen concerning the representation of employees of E. W. Bliss Company (The Toledo Machine & Tool Division) Plant No. 2, 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 Toledo, Ohio, on January 7, 1944. The Company, the UAW-CIO, and International Molders & Foundry Workers of North America, Local No. 425, A. F. L., herein called the Molders, appeared and participated.¹ 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. The motion of the Molders to dismiss the petition is denied. All parties were afforded an opportunity to file briefs with the Board.

¹ The Pattern Makers Association was also represented at the hearing.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

E. W. Bliss Co., the Toledo Machine & Tool Division, is a Delaware corporation having its principal office at Brooklyn, New York, and operating two plants in Toledo, Ohio. At Plant No. 2, a foundry with which alone we are here concerned, the Company is engaged in general foundry work. During 1943 the Company used raw materials totally valued at more than \$1,000,000, a substantial portion of which came from outside the State of Ohio. During the same period, more than 75 percent of the Company's finished products, in the manufacture of which all of the products of Plant No. 2 are used, totally valued at more than \$2,500,000, was shipped to 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

International Union, United Automobile, Aircraft & Agricultural Implement Workers of America, Local No. 12, UAW-CIO, is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

International Molders & Foundry Workers of North America, Local No. 425, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On November 5, 1943, the UAW-CIO wrote to the Company requesting exclusive recognition as collective bargaining representative of the Company's employees. The Company received this letter, but did not reply to it.

The Molders urge as a bar to this proceeding a contract which it has with the Company for the term from June 14, 1942, to December 14, 1943, and which provides for automatic renewal for 1-year terms thereafter unless thirty days prior to the annual renewal period notice of desired change or termination is given. No such notice was given prior to November 14, 1943. However, since the UAW-CIO wrote to the Company on November 5, and the Company thereby was put on due and timely notice of its representation claims, the contract is no bar.

A statement of a Board agent, introduced into evidence at the hearing, indicates that UAW-CIO represents a substantial number of employees in the unit hereinafter found appropriate.²

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 employees of the Company at Plant No. 2, excluding pattern makers and pattern makers' apprentices, laboratory employees, guards, watchmen, clerical employees, 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 E. W. Bliss Co., The Toledo Machine & Tool Division, Plant No. 2, Toledo, 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

² The Field Examiner reported that the UAW-CIO submitted 108 designation cards, all of which bore apparently genuine original signatures; that the names of 101 persons appearing on the cards were listed on the Company's pay roll of December 18, 1943, which contained the names of 212 employees in the appropriate unit.

The Molders submitted no cards or other evidence of its representation claims, merely relying on its contract with the Company.

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 have not been rehired or reinstated prior to the date of the election, to determine whether they desire to be represented by International Union, United Automobile, Aircraft & Agricultural Implement Workers of America, Local No. 12, UAW, affiliated with the Congress of Industrial Organizations, or by International Molders & Foundry Workers of North America, Local No. 425, affiliated with the American Federation of Labor, for the purposes of collective bargaining, or by neither.