

In the Matter of THE SHAW WALKER COMPANY and INTERNATIONAL UNION, UNITED AUTOMOBILE WORKERS OF AMERICA, LOCAL #830 (AFL)

Case No. 7-R-1642.—Decided February 7, 1944

Messrs. C. N. Sessions and A. B. Nevins, of Muskegon, Mich., for the Company.

Messrs. Milton Rymal, George Rogers, Everett Van DeBogart, and Emmett Robinson, of Muskegon, Mich., 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 International Union, United Automobile Workers of America, Local #830 (AFL), herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of The Shaw Walker Company, Muskegon, Michigan, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Sylvester J. Phenev, Trial Examiner. Said hearing was held at Muskegon, Michigan, on January 7, 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

The Shaw Walker Company is a Michigan corporation operating a plant at Muskegon, Michigan, where it is engaged in the production of boats, airplane parts, and wood and paper products. About 75

percent of the raw materials used by the Company during the past 6 months, totally valued at more than \$500,000, comes from sources outside the State of Michigan. During the same period, about 75 percent of its finished products, valued totally in excess of \$1,000,000 annually, was shipped by the Company to points outside the State of Michigan.

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

II. THE ORGANIZATION INVOLVED

International Union, United Automobile Workers of America, Local #830, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On November 4, 1943, the Union ask the Company to grant it recognition as the exclusive bargaining representative of the Company's employees. The Company refused.

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

We find, in substantial agreement with a stipulation of the parties, that all hourly and piece-rated productive and non-productive employees of the Company, and nonmilitarized watchmen,² but excluding superintendents, assistant superintendents, foremen, assistant foremen, office employees, salesmen, engineering department 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.

¹ The Regional Director reported that the Union submitted 185 authorization cards, 181 of which bore apparently genuine original signatures; that the names of 177 persons appearing on the cards were listed on the Company's pay roll of December 12, 1943, which contained the names of 498 employees.

² While the parties stipulated that watchmen are to be included, the record fails to indicate whether the watchmen are militarized. If they are, they are excluded from the unit.

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.³

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 Shaw Walker Company, Muskegon, Michigan, 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 Seventh 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 have not been rehired or reinstated prior to the date of the election, to determine whether or not they desire to be represented by International Union, United Automobile Workers of America, Local #830, affiliated with the American Federation of Labor, for the purposes of collective bargaining.

³ The Union asks that the November 4, 1943, pay roll be used to determine the eligibility for voting in the election. We have considered the Union's argument in this respect and conclude that no cogent reason is shown requiring deviation from our normal policy with respect to the eligibility date.