

In the Matter of MICHIANA PRODUCTS CORPORATION and UNITED AUTOMOBILE, AIRCRAFT & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, C. I. O.

Case No. 13-R-2197.—Decided February 14, 1944

Fyffe & Clarke, by *Mr. John Harrington*, of Chicago, Ill., for the Company.

Mr. Everett W. Bohannon, of Michigan City, Ind., and *Mr. Mose Kucela*, of Indianapolis, Ind., for the C. I. O.

Mr. Mark Stroen, of Michigan City, Ind., and *Mr. Stanton W. Sweeney*, of South Bend, Ind., for the A. F. L.

Mr. William Strong, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Automobile, Aircraft & Agricultural Implement Workers of America, C. I. O., herein called the C. I. O., alleging that a question affecting commerce had arisen concerning the representation of employees of Michiana Products Corporation, Michigan City, Indiana, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Robert N. Denham, Trial Examiner. Said hearing was held at Michigan City, Indiana, on January 15, 1944. The Company, the C. I. O., and the Federal Labor Union 22165 of Michiana Products Corporation (A. F. L.), herein called the 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 an opportunity to file briefs with the Board.

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

54 N. L. R. B., No. 201.

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Michiana Products Corporation, an Indiana corporation, is engaged in the manufacture of alloy castings and sheet metal parts at Michigan City, Indiana. During 1943 the Company used raw materials valued in excess of \$100,000, all of which were shipped to it from points outside the State of Indiana, and manufactured finished products valued in excess of \$200,000, at least 95 percent of which was sent to points outside that State.

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

II. THE ORGANIZATIONS INVOLVED

United Automobile, Aircraft & Agricultural Implement Workers of America, affiliated with the Congress of Industrial Organizations and Federal Labor Union 22165 of Michiana Product Corporation, affiliated with the American Federation of Labor, are labor organizations admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On November 16, 1943, the C. I. O. asked the Company to recognize it as the exclusive bargaining agent of the Company's employees. The Company declined on the ground that there existed a contract between it and the A. F. L. under which the A. F. L. was recognized as the exclusive bargaining representative. The contract, in evidence, expired on January 15, 1944. Negotiations for a new contract have been had since November 7, 1943, but no further contract had been consummated. The A. F. L. asserts that the contract and the negotiations bar the present investigation. We find that neither the negotiations for a new contract, nor the contract which expired on January 15, 1944, constitute a bar to this proceeding.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the C. I. O. 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.

¹ The Field Examiner reported that the C. I. O. submitted 224 authorization cards; that the names of 197 persons appearing on the cards were listed on the Company's pay roll of December 26, 1943, which contained the names of 513 employees in the appropriate unit.

The A. F. L. submitted no evidence of its representation except the contract between it and the Company and the testimony of the president that it has about 350 members

IV. THE APPROPRIATE UNIT

We find, in substantial agreement with the stipulation of the parties, that all production and maintenance employees, including operator instructors, truck drivers and inspectors, but excluding office, clerical and confidential employees, guards, and all 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 Michiana Products Corporation, Michigan City, Indiana, 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 Thirteenth 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 they desire to be represented by United Automobile, Aircraft & Agricultural Implement Workers of America, C. I. O., or by Federal Labor Union 22165 of Michiana Products Corporation, (A. F. L.), for the purposes of collective bargaining, or by neither.