

In the Matter of ADIRONDACK FOUNDRIES & STEEL, INC. and UNITED STEELWORKERS OF AMERICA

In the Matter of ADIRONDACK FOUNDRIES & STEEL, INC. and INTERNATIONAL MOLDERS UNION OF NORTH AMERICA, LOCAL 105, A. F. L. and UNITED STEELWORKERS OF AMERICA, C. I. O.

Cases Nos. 2-R-4418 and 2-RE-60, respectively.—Decided February 16, 1944

Ulch & Poskanzer, by *Avrom M. Jacobs*, of Albany, N. Y., for the Company.

Mr. Edgar V. Film, of Watervliet, N. Y., for the Steelworkers.

Mr. John D. O'Brien, of Troy, N. Y., and *Mr. Frank Hasslinger*, of Watervliet, N. Y., for the Molders.

Mr. William Strong, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petitions duly filed by United Steelworkers of America, C. I. O., herein called the Steelworkers, in Case No. 2-R-4418, and Adirondack Foundries & Steel, Inc., herein called the Company, in Case No. 2-RE-60, alleging that a question affecting commerce had arisen concerning the representation of employees of the Company, the National Labor Relations Board, after consolidating both cases for hearing, provided for an appropriate hearing upon due notice before David H. Werther, Trial Examiner. Said hearing was held at Albany, New York, on January 14 and 17, 1944. The Company, the Steelworkers, and International Molders Union of North America, Local 105, A. F. L.,¹ herein called the Molders, 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. The Company moved at the

¹ The names of the parties are incorrectly shown in some parts of the record.

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hearing for indefinite postponement of any election until the war is ended, and for dismissal of the petition. The motion is denied. 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

Adirondack Foundries & Steel, Inc., a New York corporation, is engaged at Colonie, New York, in the manufacture of castings and forgings. During the past year, about 66 percent of the raw materials used by the Company, totally valued at approximately \$500,000, was brought to its plant from outside the State of New York, while about 66 percent of its finished products, totally valued at more than \$1,000,000, was shipped to points outside that State.

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, and International Molders Union of North America, Local 105, affiliated with the American Federation of Labor, are labor organizations admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On November 29, 1943, the Steelworkers wrote the Company claiming to represent a majority of its employees and requesting a conference. The Company replied on December 6, 1943, stating that it was a party to an unexpired contract with the Molders covering the Company's employees, and declined to deal with any representative of its employees unless it is duly certified as the majority representative. At the hearing the president of the Company testified that the contract continues in effect until a new agreement is reached. The contract provides that it is to remain in effect for 1 year from January 15, 1943; that should either party to it "desire a change at the expiration of this agreement, notices shall be given 30 days in advance, if no notice is given by either party this agreement shall remain in force for another year and every year thereafter until notice is given for a change."

Since the Steelworkers wrote to the Company on November 29, the Company was given due and timely notice of the Steelworkers' representation claims. We find that the contract is no bar to the present proceeding.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Steelworkers 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 that a question affecting commerce has arisen concerning that all production and maintenance employees of the Company, excluding janitors, watchmen, technical and laboratory employees, inspectors, office and clerical employees, shipping employees, time-keepers, expeditors, pattern makers, gang leaders, subforemen, assistant foremen, foremen, 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.³

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,⁴ subject to the limitations and additions set forth in the Direction.⁵

The Steelworkers desires to appear on the ballot as "United Steelworkers of America, CIO," and the Molders as "International Molders and Foundry Workers Union, Local 105." Both requests are granted.

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 Rela-

² The Regional Director reported that the Steelworkers submitted 300 authorization cards, 199 of which bore apparently genuine original signatures and were the names of persons listed on the Company's pay roll of December 4, 1943, which contained the names of 565 employees in the alleged appropriate unit

The Molders submitted no evidence of its representation claims, merely pointing to its contract.

³ This collective bargaining unit has been recognized at the plant since 1937.

⁴ The Molders asks that the December 10, 1943 pay roll be used to determine eligibility for voting in the election. We have considered the Molders' arguments in this respect and conclude that no cogent reason is shown requiring deviation from our normal policy with respect to the eligibility date.

⁵ The Company moved at the hearing for indefinite postponement of any election until the end of the war on the ground that the Company is engaged in war work and an election would disrupt its operations. This contention is without merit. The motion, as stated above, is denied.

tions 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 Adirondack Foundries & Steel, Inc., Colonie, New York, 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 Second 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 Steelworkers of America, C. I. O., or by International Molders and Foundry Workers Union, Local 105, for the purpose of collective bargaining, or by neither.