

In the Matter of DOUGLAS AIRCRAFT COMPANY, INC. and PAINTERS'
DISTRICT COUNCIL NO. 14 OF BROTHERHOOD OF PAINTERS, DECORATORS
& PAPERHANGERS OF AMERICA, A. F. OF L.

Case No. 13-R-2187.—Decided February 17, 1944

Messrs. John Balluff, W. H. Shanner, and L. H. Wilson, of Chicago, Ill., for the Company.

Messrs. Matthew Hartlein and Frank L. Axelson, of Chicago, Ill., for the Painters.

Meyers & Meyers, by Mr. H. E. Baker, Messrs. Jess Nichols, and Herschel Wolfe, all of Chicago, Ill, for the C. I. O.

Mr. William C. Baisinger, Jr., of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by Painters' District Council No. 14 of Brotherhood of Painters, Decorators & Paperhangers of America, A. F. of L., herein called the Painters, alleging that a question affecting commerce had arisen concerning the representation of employees of Douglas Aircraft Company, Inc., at Park Ridge, Illinois, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Robert R. Rissman, Trial Examiner. Said hearing was held at Chicago, Illinois, on December 17, 1943. The Company, the Painters, and International Union, United Automobile, Aircraft & Agricultural Implement Workers of America, C. I. O., herein called the C. I. O., appeared and participated. All parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, to introduce evidence bearing upon the issues, and to file briefs with the Board. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

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

54 N. L. R. B., No. 227.

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Douglas Aircraft Company, Inc., is a Delaware corporation engaged in the manufacture of aircraft and aircraft parts, which operates a number of plants in several States of the United States. This proceeding concerns only its plant at Park Ridge, Illinois, known as the Chicago Plant. This plant is owned by the United States Government and operated by the Company under a cost-plus fixed-fee contract. All employees at the Chicago Plant are employed by the Company. During the 3-month period ending May 31, 1943, raw materials amounting in value to more than \$1,000,000 were used at the Chicago Plant, of which approximately 80 percent was shipped to the plant from points outside the State of Illinois. During the period from June 1943 through December 1943 the Company will deliver aircraft and aircraft parts amounting in value to over \$5,000,000 from its Chicago Plant to the United States Army Air Force for use throughout the world.¹

II. THE ORGANIZATIONS INVOLVED

Painters' District Council No. 14 of Brotherhood of Painters, Decorators & Paperhangers of America is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

International Union, United Automobile, Aircraft & Agricultural Implement Workers of America is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On November 6, 1943, the Board issued a Decision and Direction of Elections in *Matter of Douglas Aircraft Company, Inc., et al.*,² in which it directed that separate elections be conducted among four separate groups of employees of the Company's Chicago Plant to determine their choice of collective bargaining representatives.³ On November 22, 1943, the Painters filed its petition herein alleging that a question had arisen concerning the representation of the maintenance

¹ At the hearing the Company stipulated that the above stated facts which are set forth in *Matter of Douglas Aircraft Company, Inc., et al.*, 53 N. L. R. B. 486, accurately describe the business of the Company. In the cited case the Company admitted that at its Chicago Plant it is engaged in commerce within the meaning of the National Labor Relations Act.

² See case cited in footnote 1, *supra*.

³ The voting groups comprised (1) electrical maintenance employees, (2) maintenance carpenters, (3) maintenance plumbers and pipefitters, and (4) the remaining production and maintenance employees.

painters employed at the Company's Chicago Plant. On or about the same day the Painters requested the Board to grant it permission to intervene in the aforesaid consolidated cases and to participate in an election to be directed among the Company's maintenance painters. The Painters was duly advised that inasmuch as the Decision and Direction of Elections in said cases had been issued and since the elections were to be conducted in the immediate future, its motion to intervene could not be granted. However, when the elections were held on December 1, 1943, the agent of the Board who conducted the elections, at the direction of the Board, challenged the ballots cast by the maintenance painters in the election among the residual group of production and maintenance employees, the group in which they were eligible to vote in accordance with the Direction of Elections. Thereafter, pursuant to the results of the elections the Board issued a Supplemental Decision and Certification of Representatives in which among others it certified the United Automobile, Aircraft & Agricultural Implement Workers of America (U. A. W.-C. I. O.) as the exclusive bargaining representative of the residual group of production and maintenance employees, but excluded the maintenance painters from said appropriate unit pending the disposition of the petition filed herein by the Painters. The Company has continually refused to recognize the Painters as the bargaining representative of the maintenance painters unless and until it is certified by the Board.

A statement made by the Trial Examiner on the record indicates that the Painters represents a substantial number of employees within the unit which it alleges to be appropriate.⁴

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 DETERMINATION OF REPRESENTATIVES

The Painters contends that all maintenance painters Class A and Class B, sign painter specialists, and sign painters employed at the Chicago Plant of the Company, including leadmen "C", but excluding all other supervisory employees, constitute an appropriate bargaining unit. The C. I. O. contends that the maintenance painters do not constitute a separate unit and further that there is no question of repre-

⁴ The Trial Examiner stated that the Painters submitted a certified list containing the names of 18 of its members; that 14 of said names appear on the current pay roll of the Company which contains the names of 25 persons within the alleged appropriate unit; and that said list indicates that the members whose names appear thereon have been members of the Painters for periods ranging from 6 months to 34 years.

Although the C. I. O. failed to submit any evidence to indicate that it represents any of the maintenance painters one of its international representatives testified at the hearing that the C. I. O. represents a substantial number of employees within the proposed unit.

sentation in view of the elections conducted by the Board on December 1, 1943. The Company takes no position with respect to the appropriate unit.

The Company employs approximately 17 painters at its Chicago Plant. These painters are part of the carpenter and painter department of the maintenance division and include maintenance painters, a sign painter specialist, and a sign painter. These employees are engaged solely in maintenance work in and around the plant and perform no work on the products manufactured at the plant. The maintenance painters are all under the direction of a leadman Class C who has no power to hire or discharge employees under him and who spends all of his time working at his trade. In the prior case involving the Chicago Plant of the Company the Board found that the maintenance carpenters, including leadmen Class C, in the carpenter and painter department of the maintenance division, might properly comprise a separate unit or be a part of a more comprehensive unit of production and maintenance employees depending upon their desires to be expressed in an election. In that case the maintenance painters were excluded from said voting group at the request of the petitioner, Carpenters District Council of Chicago, A. F. of L. We are of the opinion that the maintenance painters constitute a clearly defined craft group and that they may properly function as a separate bargaining unit or form a part of the residual unit of production and maintenance employees presently represented by the C. I. O. Accordingly, we shall base our determination as to the appropriate unit in part upon the desires of the employees themselves, to be ascertained in the election hereinafter directed.

At the hearing the parties stipulated that the duties and function of the "C" leadman who directs the work of the maintenance painters is identical with those of the "C" leadmen in the other maintenance departments throughout the plant. For reasons stated in our prior decision, we shall include the leadmen "C" in the voting group comprised of maintenance painters.

We shall make no final determination of the appropriate unit at this time but shall direct that the question concerning representation which has arisen be resolved by means of an election by secret ballot among all maintenance painters, sign painter specialists, and sign painters employed at the Company's Chicago Plant, including leadmen "C", but excluding 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, who were employed by the Company 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 Douglas Aircraft Company, Inc., Park Ridge, Illinois, 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 all maintenance painters, sign painter specialists, and sign painters employed at the Company's Chicago plant, who were employed during the pay-roll period immediately preceding the date of this Direction, including leadmen "C" and 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 all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, and 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 Painters' District Council No. 14 of Brotherhood of Painters, Decorators & Paperhangers of America, A. F. of L., or by International Union, United Automobile, Aircraft & Agricultural Implement Workers of America, C. I. O., for the purposes of collective bargaining, or by neither.