

In the Matter of MODERN ENGINEERING COMPANY and INTERNATIONAL
MOLDERS AND FOUNDRY WORKERS UNION OF NORTH AMERICA, LOCAL
59, AFL

Case No. 14-R-835.—Decided February 19, 1944

Messrs. Willis L. Reedy and Charles H. Sporer, both of St. Louis, Mo., for the Company:

Mr. Allen H. Whittington, of St. Louis, Mo., for the Molders.

Messrs. W. C. Riley and Russell L. Davis, of St. Louis, Mo., for the I. A. M.

Mr. David V. Easton, of council to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

Upon a petition duly filed by International Molders and Foundry Workers Union of North America, Local 59, AFL, herein called the Molders, alleging that a question affecting commerce had arisen concerning the representation of employees of Modern Engineering Company, St. Louis, Missouri, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before J. J. Fitzpatrick, Trial Examiner. Said hearing was held at St. Louis, Missouri, on January 20, 1944. The Company, the Molders, and International Association of Machinists, District 9,¹ herein called the I. A. M. appeared, participated, and 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.

¹ As hereinafter indicated, we take cognizance of the fact that the I. A. M. is affiliated with the American Federation of Labor.

54 N. L. R. B., No. 240.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Modern Engineering Company is a corporation engaged in the manufacture of oxy-acetylene welding and cutting equipment, and for this purpose operates a plant in St. Louis, Missouri. During the year 1943, the Company purchased raw materials valued in excess of \$50,000, all of which came from points outside the State of Missouri. During the same period, sales of the finished products of the Company exceeded \$50,000 in value, of which approximately 90 percent was made to points outside the State of Missouri.

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

II. THE ORGANIZATIONS INVOLVED

International Molders and Foundry Workers Union of North America, Local 59, and International Association of Machinists, District No. 9, are labor organizations affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE ALLEGED APPROPRIATE UNIT

On November 13, 1941, the I. A. M. and the Company executed a closed-shop contract providing for recognition of the I. A. M. as the collective bargaining representative of certain of the Company's employees, including those involved in the proceeding herein.² Upon the expiration of this contract, a contract was executed on December 21, 1942, for a term expiring October 27, 1943, between the Company on one hand, and the I. A. M., the Molders, and Metal Polishers & Platers Local No. 13, A. F. of L., herein called the Polishers, jointly, on the other, covering the same classification of employees as those which came within the purview of the 1941 contract. On September 27, 1943, the Molders gave written notice to the Company of a desire to open negotiations with respect to readjustment in wage scales and other conditions of employment affecting the foundry workers, and included therein a proposed contract covering said employees.³ The Company replied by letter, dated November 18, 1943, in which it pointed out that under the terms of the joint contract of 1942, all subsequent negotiations between the parties thereto were to be conducted jointly, and included therein a proposed contract which

² Said contract covers production and maintenance employees of the Company with the exception of clerical and supervisory employees.

³ The record discloses that there are only three employees covered by this proposed agreement.

had been agreed upon between the Company and the other two labor organizations.

The Company is a comparatively small well-integrated business consisting of several departments under a single group and under the supervision of a single superintendent. Although the foundry employees involved herein and the metal polishers constitute two of these departments, neither group has a separate foreman,⁴ and the employees in these groups receive their instructions from either the superintendent or from foremen in other departments. Because of the nature of the work, the foundry is located in the basement, together with certain heavy presses operated by the machinists. The foundry employees do not work in other departments, but, on occasion, employees of other departments are called upon to assist in the foundry. All grievances which have arisen under the 1942 contract have been conducted through a shop committee. However, none of the foundry workers have availed themselves of this procedure.

Both the Company and the I. A. M. oppose the formation of a separate unit of foundry employees, contending that because of the integrated nature of the business, the smallness of the group involved, and the past history of collective bargaining upon a single unit basis, the proposed unit is inappropriate. We are of the opinion and find that, in view of the circumstance hereinabove set forth, especially the past representation of all production and maintenance employees, including foundry employees, as a single unit, that the unit sought herein by the Molders is inappropriate.⁵

IV. THE ALLEGED QUESTION CONCERNING REPRESENTATION

Since, as hereinabove indicated, the bargaining unit sought to be established by the petitioner herein is inappropriate for the purposes of collective bargaining, we find that no question concerning representation of employees in an appropriate unit now exists. Accordingly, we shall dismiss the petition herein.

ORDER

Upon the basis of the above findings of fact, the National Labor Relations Board hereby orders that the petition for investigation and certification filed by International Molders and Foundry Workers Union of North America, Local 59, affiliated with the American Federation of Labor, be, and it hereby is, dismissed.

⁴ The record discloses that one of the foundry employees is considered by the Company as a lead man. However, it does not appear that he possesses sufficient *indicia* of a supervisor to warrant his exclusion for the purposes of collective bargaining. Furthermore, this employee was specifically included under the terms of the 1941 contract, and also, by inference, under the terms of the 1942 contract.

⁵ *Matter of Phoenix Mfg. Co.*, 44 N. L. R. B. 1388.