

In the Matter of COCKER MACHINE & FOUNDRY COMPANY and INTERNATIONAL MOLDERS AND FOUNDRY WORKERS UNION OF NORTH AMERICA, AFL

In the Matter of COCKER MACHINE & FOUNDRY COMPANY and INTERNATIONAL ASSOCIATION OF MACHINISTS REPRESENTING LOCAL #1762

Cases Nos. 5-R-1471 and 5-R-1472 respectively.—Decided February 23, 1944

Mr. A. C. Jones, of Gastonia, N. C., for the Company.

Mr. Edward Long, of East Point, Ga., for the Molders.

Mr. F. T. Cornelius, of Charlotte, N. C., for the I. A. M.

Mr. Joseph E. Gubbins, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon petitions duly filed by International Molders and Foundry Workers Union of North America, affiliated with the American Federation of Labor, herein called the Molders, and International Association of Machinists, representing Local #1762, affiliated with the American Federation of Labor, herein called the I. A. M., each alleging that a question affecting commerce had arisen concerning the representation of employees of Cocker Machine & Foundry Company, Gastonia, North Carolina, herein called the Company, the National Labor Relations Board provided for an appropriate consolidated hearing upon due notice before Robert A. Levett, Trial Examiner. Said hearing was held at Gastonia, North Carolina, on January 20 and 21, 1944. The Company, the Molders, and 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 upon the issues. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded 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

Cocker Machine & Foundry Company is a North Carolina corporation, and is engaged at Gastonia, North Carolina, in the manufacture of textile machinery. Annually, the Company purchases raw materials valued in excess of \$200,000, approximately 98 percent of which is shipped to its plant from points outside the State of North Carolina. During the same period, the Company manufactures finished products valued in excess of \$450,000, approximately 90 percent of which is shipped to points outside the State of North Carolina. 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, and International Association of Machinists, representing Local #1762, are labor organizations, affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTIONS CONCERNING REPRESENTATION

The Molders and the I. A. M. have requested recognition as the exclusive bargaining representative of certain employees of the Company. The Company refuses to extend such recognition unless and until the appropriate units and the majority status of the Molders and the I. A. M. therein are determined by the Board.

A statement prepared by the Regional Director introduced into evidence, indicates that the Molders and the I. A. M. represents a substantial number of employees in the unit each alleges to be 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 Regional Director's statement shows that the Molders submitted 19 application cards dated in October, November, and December 1943, all of which bear apparently genuine signatures, and 17 of which bear names of persons whose names are listed on the Company's pay roll of December 21, 1943; there are approximately 24 employees in the unit alleged to be appropriate.

The I. A. M. submitted 49 application cards dated in October and November 1943, all of which bear apparently genuine signatures, and 46 of which bear names of persons whose names are listed on the Company's pay roll of December 21, 1943; there are approximately 63 employees in the unit alleged to be appropriate.

IV. THE APPROPRIATE UNITS

The Molders seeks a unit comprised of all employees of the foundry department, excluding clerical employees, watchmen, foremen, and all other supervisory employees. The I. A. M. requests a unit comprised of all production and maintenance employees, including employees in the pattern shop, warehouseman,² but excluding employees of the foundry department, drafting room employees, shipping clerks and shippers, watchmen, clerical employees, executives, and supervisory employees. The Company agrees with the scope of the foregoing units. The record shows no history of collective bargaining with respect to the employees in the units here sought.

The Company's operations are confined, in the main, to two divisions, the foundry department and the machine, erecting and pattern shops. The foundry employees are engaged in molding, pouring metal, and various other duties usually associated with foundry work; the employees of the machine, erecting and pattern shops are engaged in the duties customarily performed by machinists, machine operators, pattern makers,³ and other-like employees. There is no interchange of employees between the foundry and the machine, erecting and pattern shops, and each division has its own foreman who is directly responsible to the plant superintendent; there is also a physical separation of the two divisions.

The physical separation of the two divisions, the dissimilarity in work and skill required of employees therein, the total lack of interchange of employees between the two divisions, and the absence of any history of collective bargaining with respect to the employees herein involved, are compelling factors in support of the desire of the parties that each division be found to constitute a separate appropriate unit. We note also that the jurisdiction of the Molders is confined to employees of the foundry while that of the I. A. M. extends only to the remaining production and maintenance employees of the Company.

We find that the following groups of the Company's employees in the Gastonia, North Carolina, plant, constitute units appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the Act:

(1) All employees of the foundry department, excluding clerical employees, watchmen, 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; and

² While designated as warehouseman, it appears that his duties are, in fact, those of a machinist's helper.

³ The Company employs only one pattern maker in its pattern shop.

(2) All maintenance and production employees, including employees in the pattern shop, and the warehouseman, but excluding employees of the foundry department, drafting room employees, shipping clerks and shippers, watchmen, clerical employees, executives, and all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action.

V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the questions concerning representation which have arisen be resolved by elections by secret ballot among the employees in the respective units who were employed during the pay-roll period immediately preceding the date of the Direction herein, subject to the limitations and additions set forth in the Direction.⁴

DIRECTION OF ELECTIONS

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 Cocker Machine & Foundry Company, Gastonia, North Carolina, elections 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 Fifth 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 units found appropriate in Section IV, above, who were employed by the Company at its Gastonia plant 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 any who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the elections; (1) to determine with respect to the employees in the unit described in paragraph (1) of Sec-

⁴ Although listed on the Company's pay roll, it was stipulated that Joe Darisse, Walter Damon, Philip Grandchamp, E. Kay, and Harry Kay are not employees of the Company at its Gastonia plant. Accordingly, we find that these employees are ineligible to vote in the elections hereinafter directed.

tion IV, whether or not they desire to be represented by International Molders and Foundry Workers Union of North America, affiliated with the A. F. of L., for the purposes of collective bargaining; and (2) to determine with respect to the employees in the unit described in paragraph (2) of Section IV, whether or not they desire to be represented by International Association of Machinists, representing Local #1762, affiliated with the A. F. of L., for the purposes of collective bargaining.