

In the Matter of ALUMINUM FORGINGS, INC. and UNITED AUTOMOBILE,
AIRCRAFT & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, LOCAL
No. 491 (C. I. O.)

Case No. 6-R-890.—Decided February 23, 1944

Mr. Lyman M. Bass, of Buffalo, N. Y., and *Mr. John S. Slosson*, of Erie, Pa., for the Company.

Mr. Eugene O. Drumm, of Erie, Pa., for the Union.

Mr. A. Sumner Lawrence, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by United Automobile, Aircraft & Agricultural Implement Workers of America, Local No. 491 (C. I. O.), herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Aluminum Forgings, Inc., Erie, Pennsylvania, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before James A. Shaw, Trial Examiner. Said hearing was held at Erie, Pennsylvania, on January 19, 1944. The Company and the Union 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 the opportunity of filing 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

Aluminum Forgings, Inc., a Pennsylvania corporation, has its principal place of business in Erie, Pennsylvania, where it is engaged in the manufacture of aluminum forgings in a plant owned by the Defense Plant Corporation, an instrumentality of the United States Gov-

ernment. During the 12-month period ending September 9, 1943, the Company purchased for use at its Erie, Pennsylvania, plant, raw materials valued in excess of \$500,000, of which 50 percent was obtained from points outside the Commonwealth of Pennsylvania. During the same period, the Company manufactured at its Erie plant finished products valued in excess of \$200,000, of which 50 percent was shipped to points outside the Commonwealth of Pennsylvania. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

United Automobile, Aircraft & Agricultural Implement Workers of America, Local No. 491, is a labor organization, affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On December 9, 1943, the Union claiming majority representation, requested that the Company recognize it as the exclusive bargaining representative for the Company's timekeeping employees. The Company declined to grant the Union's request.

A statement of the Regional Director, introduced in evidence at the hearing, indicates that the Union 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.

IV. THE APPROPRIATE UNIT

The Union contends that all timekeepers and assistants employed by the Company, whether salaried or hourly rated, excluding all other employees and supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees or effectively recommend such action, constitute an appropriate unit. The Company contends that these employees do not comprise an appropriate unit, basing its contention upon the grounds that (a) timekeeping employees do work of a confidential nature, and (b) the Union cannot properly represent the timekeeping employees because it already represents the production and maintenance employees in a unit from which the Board expressly excluded time-

¹ The Regional Director reported that the Union had submitted 10 authorization cards dated in September 1943, of which 9 bore the apparently genuine original signatures of persons whose names appear on the Company's pay roll of December 24, 1943, containing 10 names within the claimed appropriate unit.

keepers and assistants.² In addition to the question of the appropriateness of a timekeeping unit, the Union would include and the Company exclude the chief timekeeper from any unit of timekeepers that may be found appropriate for the purposes of collective bargaining.

The record reveals that the timekeepers are engaged in the duties normally performed by such employees; there is no evidence that as a group they exercise any supervisory functions or that they have any power to make recommendations. Their work is largely clerical in nature. We have heretofore found that timekeepers, absent a clear showing of confidential duties which refer to labor relations or the performance of managerial functions, do not perform duties of a nature sufficient to warrant depriving them of the rights of self-organization and collective bargaining.³ We are of the opinion that the employees herein perform no such duties as would warrant their exclusion from the benefits conferred by the Act.

The Company further contends that since these employees were expressly excluded from the production and maintenance unit previously found appropriate by the Board, the Union is precluded from representing such employees. We find no merit in this contention; the fact that the Union now represents the production and maintenance employees in a unit from which timekeepers are excluded, does not preclude it from representing such timekeeping employees in a separate appropriate unit.⁴

There remains for consideration the question of including or excluding the chief timekeeper from the appropriate unit. This employee is the highest paid individual in the timekeepers group, is in complete charge of such employees, and has authority to recommend their hire and discharge. We find that the chief timekeeper is a supervisory employee within our usual definition; we shall exclude him from the appropriate unit.

We find that all timekeepers and assistants employed by the Company, whether salaried or hourly rated, excluding the chief timekeeper, and all other employees and supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute an appropriate unit within the meaning of Section 9 (b) of the Act.

² See *Matter of Aluminum Forgings, Inc.*, 53 N. L. R. B. 1054.

³ See *Matter of United Aircraft Products*, 41 N. L. R. B. 501; *Matter of Bethlehem Steel Company, Staten Island Yard*, 46 N. L. R. B. 1166; *Matter of General Motors Corporation, Eastern Aircraft, Trenton Division*, 51 N. L. R. B. 217.

⁴ See *Matter of Chrysler Corporation, Marysville Plant*, 36 N. L. R. B. 157; *Matter of General Motors Corporation, Eastern Aircraft, Trenton Division*, 51 N. L. R. B. 217.

V. THE DETERMINATION OF REPRESENTATIVES

It was disclosed at the hearing that the plant operated by the Company was in the process of expanding. Such expansion will, it was estimated, add approximately 3 employees to the group of 10 timekeepers and assistants included within the appropriate unit.⁵ While the Board has in some instances dismissed proceedings when by reason of expanding operations it has appeared that a representative group of employees would not be attained within a reasonably short time thereafter,⁶ we are of the opinion that inasmuch as the Company has already attained more than 50 percent of its contemplated timekeeping personnel, the purposes of the Act would not be effectuated by dismissing the petition relating thereto.⁷ Accordingly, 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 Aluminum Forgings, Inc., Erie, Pennsylvania, 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 Sixth 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

⁵ The record reveals that the peak of expansion is expected to be reached in the spring or summer of the present year.

⁶ See *Matter of Lukas Harold Corp.*, 44 N. L. R. B. 730; *Matter of Solar Aircraft Company*, 48 N. L. R. B. 242.

⁷ See *Matter of Remington Rand, Inc., Propeller Division*, 50 N. L. R. B. 819; *Matter of Chapman Dehydrator Company, Inc.*, 51 N. L. R. B. 664.

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 or not they desire to be represented by United Automobile, Aircraft & Agricultural Implement Workers of America, Local No. 491 (C. I. O.), for the purposes of collective bargaining.