

In the Matter of MIAMI SHIPBUILDING CORPORATION and INDUSTRIAL UNION OF MARINE AND SHIPBUILDING WORKERS OF AMERICA, CIO LOCAL 59

Case No. 10-R-1095.—Decided February 28, 1944

Mr. Horace E. Loomis, of Miami, Fla., for the Company.

Mr. George A. Headley, of Miami, Fla., for the Union.

Mr. William Strong, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Industrial Union of Marine and Shipbuilding Workers of America, CIO, Local 59, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Miami Shipbuilding Corporation, Miami, Florida, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Harry F. Jones, Trial Examiner. Said hearing was held at Miami, Florida, on February 2, 1944. The Company and the Union 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. 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

Miami Shipbuilding Corporation, a Florida corporation, is engaged at Miami, Florida, in the manufacture of aircraft rescue boats. More than 50 percent of the raw materials used by the Company during 1943, valued in excess of \$100,000, was sent into its plant from points outside

the State of Florida. The Company's finished products valued at more than \$200,000 during 1943 were all delivered to the United States Navy.

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

II. THE ORGANIZATION INVOLVED

Industrial Union of Marine and Shipbuilding Workers of America, CIO, Local 59, affiliated with the Congress of Industrial Organizations is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the Union as the exclusive bargaining representative of the Company's employees in effect until the Union has been certified by the Board in an appropriate unit.

A statement of the Trial Examiner made on the record 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

We find in substantial agreement with the stipulation of the parties that all guards at the Company's Miami yard, but excluding chiefs and assistant chiefs and any 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.

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; subject to the limitations and additions set forth in the Direction.

¹ The Trial Examiner reported that the Union submitted 40 authorization cards, 20 of which bore apparently genuine original signatures and were the names of persons listed on the Company's pay roll of January 24, 1944, which contained the names of 40 employees in the appropriate unit

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 Miami Shipbuilding Corporation, Miami, Florida, 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 Tenth 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 or not they desire to be represented by Industrial Union of Marine and Shipbuilding Workers of America, Local 59, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.

MR. JOHN M. HOUSTON took no part in the consideration of the above Decision and Direction of Election.