

In the Matter of FARREL-BIRMINGHAM COMPANY, INCORPORATED and
DISTRICT 76, INTERNATIONAL ASSOCIATION OF MACHINISTS

Case No. 3-R-753.—Decided March 7, 1944

Mr. Edward D. Flaherty, of Buffalo, N. Y., for the Company.

Mr. D. J. Omer, of Buffalo, N. Y., for the Union.

Mr. Louis Cokin, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by District 76 International Association of Machinists, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Farrel-Birmingham Company, Incorporated, Buffalo, New York, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Peter J. Crotty, Trial Examiner. Said hearing was held at Buffalo, New York, on February 16, 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 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

Farrel-Birmingham Company, Incorporated, is a Connecticut corporation operating a plant at Buffalo, New York, where it is engaged in the manufacture of heavy machinery, gears, rolls, and castings. During 1943 the Company used raw materials at its Buffalo plant valued in excess of \$2,000,000, approximately 50 percent of which was

shipped to it from points outside the State of New York. During the same period the Company manufactured products at its Buffalo plant valued in excess of \$4,000,000, approximately 70 percent of which was shipped to points outside the State of New York. The Company admits, for the purpose of this proceeding, that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

District 76, International Association of Machinists, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company refuses to recognize the Union as the exclusive collective bargaining representative of certain of its employees until such time as the Union is certified by the Board.

A statement of a Field Examiner of the Board, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found 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.

IV. THE APPROPRIATE UNIT

We find, in accordance with a stipulation of the parties, that all non-militarized watchmen of the Company, 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, 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 means of 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.

¹The Field Examiner reported that the Union presented three authorization cards. There are four 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 Farrel-Birmingham Company, Incorporated, Buffalo, New York, 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 Third 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 any 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 District 76, International Association of Machinists, affiliated with the American Federation of Labor, for the purposes of collective bargaining.

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