

In the Matter of ROYAL TYPEWRITER COMPANY, INC. *and* UNITED ELECTRICAL, RADIO AND MACHINE WORKERS OF AMERICA, LOCAL 265 (C. I. O.)

*Case No. 1-R-1631.—Decided March 10, 1944*

*Mr. Walfrid G. Lundborg*, of Hartford, Conn., for the Company.

*Mr. Frederick R. Livingston*, of New York City, for the Union.

*Mr. William C. Baisinger, Jr.*, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by United Electrical, Radio and Machine Workers of America, Local 265 (C. I. O.), herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Royal Typewriter Company, Inc., Hartford, Connecticut, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Thomas H. Ramsey, Trial Examiner. Said hearing was held at Hartford, Connecticut, on January 18, 1944. The Company and the Union appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, to introduce evidence bearing upon the issues, and to file briefs with the Board. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Royal Typewriter Company, Inc., a New York corporation, is normally engaged in the manufacture of typewriters and typewriter parts. The Company operates plants in Hartford, Connecticut, and Montreal, Canada. Only the Hartford, Connecticut, plant is involved in this proceeding. At this plant the Company is presently engaged

in the manufacture of machine gun parts and aircraft engine parts. Annually, the value of the raw materials used at this plant exceeds \$1,000,000, of which over 50 percent is shipped to the Company from points outside the State of Connecticut. The Company annually produces over \$1,500,000 worth of finished products, of which in excess of 50 percent is shipped to points outside the State of Connecticut. The Company admits and we find, that for the purpose of this hearing, it is engaged in commerce within the meaning of the National Labor Relations Act.

#### II. THE ORGANIZATION INVOLVED

United Electrical, Radio and Machine Workers of American, Local 265, is a labor organization affiliated with the Congress of Industrial Organizations admitting to membership employees of the Company.

#### III. THE QUESTION CONCERNING REPRESENTATION

At the hearing the parties stipulated that on or about September 29, 1943, the Union advised the Company that it represented a majority of the employees within an alleged appropriate bargaining unit and requested recognition as their exclusive bargaining agent. The Company refuses to accord the Union such recognition unless and until it is certified by the Board.

A statement prepared by the Regional Director and introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees within the unit hereinafter found to be appropriate.<sup>1</sup>

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 set-up men employed by the Company at its Hartford plant, excluding foremen, assistant foremen, and second assistant foremen, constitute an appropriate bargaining unit. The Company, on the other hand, denies the appropriateness of such a unit, contending that set-up men are supervisory employees.

#### *Functional considerations*

The Company employs approximately 70 set-up men in the 8 production departments of the plant. At the beginning of each shift the set-

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<sup>1</sup>The Regional Director reported that the Union submitted membership records which show 24 dues paying members whose names appear on the Company's pay roll of December 15, 1943, which contains the names of 70 persons within the alleged appropriate unit.

up men report to their immediate supervisor and receive their working orders. These orders include the number and location of the machines to which they are assigned and specific instructions with respect to setting up each machine. Upon receiving his orders, each set-up man sets up a machine to which he has been assigned, runs off a sample product which must be approved by the departmental supervisor, and turns over the properly functioning machine to the operator selected by the supervisor. The set-up man then usually instructs the operator for a few moments before proceeding to the next machine assigned to him where he follows a similar procedure. In addition to setting up machines it is also the duty of the set-up men to repair any break-downs that occur during production.

As a general rule a foreman is the supervisor in charge on the first shift in each of the production departments. Under him are assistant foremen and second assistant foremen. On the second and third shifts either an assistant foreman or a second assistant foreman acts as the supervisory employee in charge. The number of set-up men employed in a particular department varies in proportion to the number of machines operating during each shift. Generally speaking there is 1 set-up man for every 10 operators. Until recently certain set-up men were customarily in charge of the operations in each department on the third shift. However, within the past 6 or 8 weeks the Company has promoted the set-up men who were in charge of this shift in a particular department to the position of second assistant foremen. The Union concedes that such employees should be excluded from the unit.

The Company contends that set-up men are managerial representatives because they control production by regulating the speed of machines which they set up. However, set-up men must set up and regulate the speed of machines in accordance with instructions received from their supervisors. These instructions are initially prepared by the time-study department. Also, the production of a machine is continually checked by spot inspectors so that any dereliction on the part of the set-up men can be immediately discovered by the foreman, the assistant foreman, the time-study man, or the spot inspector. The record is devoid of evidence indicating that set-up men have any authority to change or effectively recommend a change in status of any of the employees of the Company.

#### *Bargaining history*

On January 19, 1942, pursuant to the results of a consent election the Company and the Union entered into a 1-year automatically renewable collective bargaining agreement covering all hourly rated employees engaged in production and maintenance, excluding, among others, set-up men. This unit conformed to the unit set forth in the

consent election agreement. The 1942 agreement was superseded by a contract executed on July 16, 1943, covering the same employees. It is clear from the record that the Union agreed to exclude set-up men for the sole reason that it had not successfully organized them. Moreover, such employees have been included in industrial units in many other plants.<sup>2</sup>

We find that the set-up men employed by the Company do not possess any of the *indicia* of authority customarily vested in supervisory employees, that they in no way represent management, and that they are merely highly skilled machinists equal in status with other production employees. Accordingly, we find that all set-up men employed at the Company's Hartford, Connecticut, plant, excluding foremen, assistant foremen, second assistant 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, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.<sup>3</sup>

#### 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.

#### 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 Royal Typewriter Company, Inc., Hartford, Connecticut, an election by secret ballot shall be conducted as early as possible, but not later than thirty (30)

<sup>2</sup> See *Matter of The Murray Company*, 46 N. L. R. B. 1097; *Matter of SKF Industries, Inc., et al.*, 53 N. L. R. B. 608; *Matter of Ken-Rad Tube & Lamp Corporation and Ken-Rad Transmitting Tube Corporation*, 50 N. L. R. B. 1010; *Matter of Manning, Maxwell & Moore, Inc.*, 53 N. L. R. B. 951.

<sup>3</sup> At the hearing the Union indicated that in the event it is certified as the bargaining representative of the Company's set-up men, it might, at a future date, desire to include these employees in the industrial unit which it now represents. We are of the opinion that should the set-up men select the Union as their bargaining representative in the election which we hereinafter direct, it will not be inappropriate for the parties to consolidate the two groups of employees for the purposes of collective bargaining.

days from the date of this Direction, under the direction and supervision of the Regional Director for the First 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 United Electrical, Radio and Machine Workers of America, Local 265 (C. I. O.), for the purposes of collective bargaining.

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