

In the Matter of INTERLOCK METAL UNITS, INC. and UNITED MECHANICS, LOCAL 150, I. F. L. W. U.-C. I. O.

*Case No. 2-R-4433.—Decided March 13, 1944*

*Mr. Francis J. Gilbride, Jr.*, of Brooklyn, N. Y., for the Company.

*Leider, Witt & Cammer*, by *Mr. Harold I. Cammer*, and *Mr. Abraham Levin*, of New York City, for the Mechanics.

*Ashe & Rifkin*, by *Mr. George Rifkin*, of New York City, for the Metal Workers.

*Mr. Armin Uhler*, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by United Mechanics, Local 150, I. F. L. W. U.,<sup>1</sup> affiliated with the Congress of Industrial Organizations, herein called the Mechanics, alleging that a question affecting commerce had arisen concerning the representation of employees of Interlock Metal Units, Inc., New York City, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Jack Davis, Trial Examiner. Said hearing was held at New York City, on January 24, 1944. The Company, the Mechanics, and Sheet Metal Workers International Association, Local 137, A. F. L., herein called the Metal Workers, 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.

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<sup>1</sup> In the petition the union is erroneously designated as United Mechanics, Local 150, I. F. & L. U. U.

55 N. L. R. B., No. 86.

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

### FINDINGS OF FACT

#### I. THE BUSINESS OF THE COMPANY

Interlock Metal Units, Inc., is a New York corporation with its principal office in New York City. The Company operates a plant at Brooklyn, New York, where it is engaged in the fabrication of metal and manufacture of equipment for the United States Army and Navy. During the past year the Company used raw materials, principally steel, valued at more than \$250,000, in excess of 33 percent of which was shipped to its Brooklyn plant from outside the State of New York. During the same period the Company manufactured products the value of which exceeded \$500,000 and more than 66 percent of which was shipped to points outside the State of New York.

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

#### II. THE ORGANIZATIONS INVOLVED

United Mechanics, Local 150, International Fur, Leather Workers Union, affiliated with the Congress of Industrial Organizations, and Sheet Metal Workers International Association, Local 137, affiliated with the American Federation of Labor, are labor organizations admitting to membership employees of the Company.

#### III. THE QUESTION CONCERNING REPRESENTATION

On or about December 1, 1943, the Mechanics requested recognition as the exclusive representative of the Company's production and maintenance employees. The Company refused to grant such recognition because of the conflicting representation claims of the Metal Workers and concurrent claims of Independent Metal Workers Union.<sup>2</sup>

The Metal Workers takes the position that the present proceeding is barred by a contract allegedly existing between it and the Company. The contract relied upon was executed by the parties on May 1, 1943, and was to be effective until October 31, 1943. The agreement (Article IX) provided that thereafter it should continue in force from year to year unless notice of termination was given by either party at least ninety days prior to the annual automatic renewal date.<sup>3</sup>

<sup>2</sup> Although Independent Metal Workers Union was served with Notice of Hearing, the organization did not participate and did not assert any claims in the present proceeding.

<sup>3</sup> The contractual relations between the Company and the Metal Workers originated in 1937, with the execution of a 1-year contract containing provisions for its termination or automatic renewal identical with those of Article IX of the contract of May 1, 1943. A renewal contract was executed by the parties in January 1939, but was apparently intended to cover the 1-year period from November 1, 1938, to October 31, 1939. This agreement, by

The record shows that on or about July 29, 1943, the Company and the Metal Workers, referring to Article IX of the agreement, signified their respective intentions to terminate the agreement. The Company at the hearing took the position that the contract terminated on October 31, 1943, and the record unmistakably shows that subsequent to that date both parties considered the agreement at an end. No negotiations took place and no new agreement was entered into by the parties after that date. It is, therefore, clear that the Metal Workers' contention is without merit and that there is no contractual obstacle to a present determination of representatives. The parties stipulated that the Mechanics and the Metal Workers have a sufficient interest in this proceeding, and a statement of the Regional Director, introduced in evidence, shows that both represent substantial numbers of employees in the unit hereinafter found appropriate.<sup>4</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 parties are in agreement concerning the appropriateness of the unit alleged in the petition and we find no reason for departing from the wishes of the parties. We find that all production and maintenance employees of the Company, including employees performing outside work on board ship, but excluding office 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, 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 em-

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virtue of its automatic renewal clause, continued in force until October 31, 1942. Certain changes in the terms of the agreement which were desired at the time were then negotiated. Although the resulting agreement was not executed until May 1, 1943, it was made to expire on October 31, 1943, apparently for the purpose of preserving the annual expiration date established in the original contract.

<sup>4</sup> The Regional Director reported that the Mechanics submitted 52 membership application cards, 51 of which bore the apparently genuine original signatures of employees whose names appear on the Company's pay roll of December 17, 1943; that said pay roll contained the names of 54 employees in the appropriate unit; and that 49 of the cards were dated between November 30 and December 3, 1943, 2 cards being undated.

The Regional Director also reported that according to the dues records of the Metal Workers, 16 of the employees named on the Company's December 17, 1943, pay roll were dues-paying members in good standing with the organization; that 11 employees on said pay roll were members in good standing until their suspension between October 1 and December 1, 1943, and that 5 employees on said pay roll had paid to the organization initiation fees either in full or in part.

ployees 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 Interlock Metal Units, Inc., New York City, 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 Second 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 they desire to be represented by United Mechanics, Local 150, I. F. L. W. U., affiliated with the Congress of Industrial Organizations, or by Sheet Metal Workers International Association, Local 137, affiliated with the American Federation of Labor, for the purposes of collective bargaining, or by neither.