

IN the Matter of CONSOLIDATED VULTEE AIRCRAFT CORPORATION, FORT WORTH DIVISION *and* INTERNATIONAL ASSOCIATION OF MACHINISTS, DISTRICT LODGE No. 776

Case No. 16-R-809.—Decided March 18, 1944

Messrs. Raymond E. Buck and J. M. Hassler, of Fort Worth, Tex., for the Company.

Mr. C. M. Mulholland, of Dallas, Tex., Mr. L. M. Fagan and Mr. J. D. Smith, of Fort Worth, Tex., 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 International Association of Machinists, District Lodge No. 776, A. F. of L., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Consolidated Vultee Aircraft Corporation, Fort Worth Division, Fort Worth, Texas, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Gustaf B. Erickson, Trial Examiner. Said hearing was held at Fort Worth, Texas, on January 31, 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. At the hearing, the Company moved to dismiss the petition asserting that the employees whom the Union seeks to represent are supervisory in status and do not constitute an appropriate bargaining unit. The Trial Examiner reserved ruling upon this motion for the Board. For reasons stated in Section IV, *infra*, we hereby deny the Company's motion. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

55 N L R B, No 104.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Consolidated Vultee Aircraft Corporation, a Delaware corporation, operates a plant at Fort Worth, Texas, known as the Fort Worth Division, at which it is engaged in the manufacture of airplanes. Annually, the Fort Worth Division uses raw materials, the principal one being aluminum, valued in excess of \$500,000, over 50 percent of which is shipped to the plant from points outside the State of Texas. The Fort Worth Division annually produces airplanes valued in excess of \$1,000,000, substantially all of which are transported to points outside the State of Texas. The Company admits and we find that at its Fort Worth Division it is engaged in commerce, within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

International Association of Machinists, District Lodge No. 776 is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On or about January 3, 1944, the Union requested the Company to recognize it as the exclusive bargaining representative of the employees within an alleged appropriate bargaining unit. The Company refused to accord the Union such recognition on the ground that the alleged unit was inappropriate.

A statement prepared by a Field Examiner of the Board, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees within 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

The Union contends that all inspectors employed in the Company's Fort Worth Division plant, excluding the chief inspector, super-

¹ The Field Examiner reported that the Union submitted 470 authorization cards and that the Company's pay roll of January 14, 1944, contains the names of 1,031 persons within the alleged appropriate unit.

visors, and assistant supervisors, constitute an appropriate bargaining unit. The Company, on the other hand, denies the appropriateness of such a unit, contending that the inspectors are supervisory employees and that in its decision in a prior representation case² the Board so found by determining that "their interests are identified with management." The comprehensive record in the instant case is replete with evidence concerning the duties and functions of the inspectors and after careful consideration we conclude that these employees do not fall within our customary definition of supervisory employees and, despite our previous finding to the contrary, we conclude further that they are not otherwise allied with management.

The Company's inspection division is under the supervision of a chief inspector. Immediately below the chief inspector in authority are the supervisors and underneath them, in turn, their assistants. Each supervisor and his assistants are in charge of approximately 25 inspectors. There are over 1,000 inspectors employed in the various production and maintenance departments in the plant. The inspectors punch time clocks in the same clock house used by the production and maintenance employees, and wear red vests so that they can be distinguished from other employees working in the plant. Inspectors are assigned to the various production and maintenance departments in the plant. Their function is to examine the work produced by the production and maintenance employees and to approve or reject it in accordance with certain required standards. As a general rule, inspectors receive their appointments because of their educational background and prior practical experience, or because of special training they have received in the plant. In the performance of their duties, they must be able to read blueprints, know enough mathematics to make certain necessary calculations, and be familiar with the qualities of ferrous and non-ferrous metals. Each inspector is provided with a special stamp, a periscopic mirror, and a kit of tools all of which he uses in his work. Each time an inspector rejects a piece of work he attaches a red tag to it and makes out a written report which he hands to his supervisor. If he accepts a piece of work, he imprints his stamp of acceptance upon it. The acceptance or

² *Matter of Consolidated Aircraft Corporation, Fort Worth Division*, 47 N L R B 30. In the cited case, the Union, as the petitioner, sought to establish an appropriate bargaining unit comprised of all hourly rated production and maintenance employees in the Company's Fort Worth Division plant, including, among others, inspectors. Upon the basis of the record before it, the Board excluded the inspectors from the appropriate unit, saying, in part:

Although they [inspectors] do not have the authority to hire or discharge, these employees are engaged in the supervision of the quality of the work performed by production and maintenance employees. . . . We shall exclude inspectors from the appropriate unit, since their interests are identified with management.

rejection of work by an inspector is subject to the approval of his immediate supervisor who spot checks all his work and has the authority to reverse his findings. In some departments inspectors are entrusted with certain military information related to the war effort which they must swear not to reveal. They have no authority to hire, discharge, discipline, or alter the status of employment of the employees whose work they inspect, nor can they effectively recommend such action.

While it is true that the inspectors have the authority to reject work produced by a production or a maintenance employee, their rejection is based upon previously formulated specifications with which each mechanical part produced must conform before it becomes an integral part of a finished airplane. Moreover, as noted above, their inspection work itself is spot checked by supervisors who may reverse their findings. Thus, the inspectors' supervision with respect to the quality of work produced by the production and maintenance employees in the plant is restricted by the required observance of specifications which they have no part in formulating and by the more effective authority vested in their supervisors. In any case, their authority to accept or reject work is insufficient to raise their stature to that of supervisory employees. Inasmuch as it is evident that these inspectors are skilled employees possessing considerable technical knowledge and that their interests in matters of collective bargaining are somewhat different from those of the production and maintenance employees in the plant, their inclusion in a production and maintenance unit is open to some question.³ Nevertheless, we are of the opinion that they are not supervisory employees and that their interests are not allied with those of management.

We find that all inspectors employed in the Fort Worth Division plant of the Company, excluding the chief inspector, supervisors, and assistant supervisors, 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.

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

³ As above mentioned, the inspectors employed at the Fort Worth Division plant were excluded from the production and maintenance unit found by the Board to be appropriate in the prior representation case.

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 Consolidated Vultee Aircraft Corporation, Fort Worth Division, Fort Worth, Texas, 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 Sixteenth 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 International Association of Machinists, District Lodge No. 776, affiliated with the American Federation of Labor, for the purposes of collective bargaining.