

In the Matter of MARYLAND SANITARY MANUFACTURING CORPORATION *and* UNITED STEELWORKERS OF AMERICA

In the Matter of MARYLAND SANITARY MANUFACTURING CORPORATION *and* PATTERN MAKERS LEAGUE OF NORTH AMERICA, AFL

Cases Nos. 5-R-1403 and 5-R-1488 respectively.—Decided March 25, 1944

Messrs. J. L. DeYoung and Frank S. Inman, of Baltimore, Md., for the Company.

Mr. George Q. Lynch, of Washington, D. C., and *Mr. Kendall Allen*, of Parkville, Md., for the Pattern Makers.

Mr. Edwin B. Abbott, of Baltimore, Md., for the Steelworkers.

Messrs. C. P. Gibson and J. E. Poulton, of Baltimore, Md., for the Machinists.

Mr. William R. Cameron, of counsel to the Board.

DECISION

DIRECTION OF ELECTION

SUPPLEMENTAL DECISION

AND

CERTIFICATION OF REPRESENTATIVES

STATEMENT OF THE CASE

Upon amended petition duly filed in Case No. 5-R-1488 by Pattern Makers League of North America, AFL, herein called the Pattern Makers, alleging that a question affecting commerce had arisen concerning the representation of employees of Maryland Sanitary Manufacturing Corporation, Baltimore, Maryland, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Robert A. Levett, Trial Examiner. Said hearing was held at Baltimore, Maryland, on February 11, 1944. The Company, the Pattern Makers, the United Steelworkers of America, C. I. O., herein called the Steelworkers, and International Association of Machinists, herein called the Machinists,

appeared and participated in the hearing.¹ 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 opportunity to file briefs with the Board.

On December 21, 1943, the Board issued a Decision and Direction of Elections in Case No. 5-R-1403,² wherein it directed separate elections among employees of the Company in the foundry and in the machine and shell shops, respectively. On January 19, 1944, pursuant to such Direction, elections by secret ballot were conducted under the direction and supervision of the Regional Director for the Fifth Region (Baltimore, Maryland). The Board hereby consolidates Cases Nos. 5-R-1403 and 5-R-1488.

Upon the entire records in the consolidated cases, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Maryland Sanitary Manufacturing Corporation is a Maryland corporation whose plant is located at Baltimore, Maryland, where it is engaged in the manufacture of war products for the United States Government. During September 1943, the Company used raw materials valued in excess of \$80,000, of which approximately 63 percent was shipped to its plant from points outside the State of Maryland. During the same period the Company manufactured finished products valued in excess of \$100,000, of which approximately 98 percent was shipped to points outside the State of Maryland. The Company concedes that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

Pattern Makers League of North America and International Association of Machinists are labor organizations affiliated with the American Federation of Labor, admitting to membership employees of the Company.

United Steelworkers of America is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

¹ International Molders and Foundry Workers Union of North America, A. F. L., although served with notice, did not appear or participate in the hearing.

² 53 N. L. R. B. 1490.

III. THE QUESTION CONCERNING REPRESENTATION

The Company refuses to recognize the Pattern Makers as exclusive bargaining representative of its employees in the unit herein claimed to be appropriate, unless said organization is certified by the Board.

A statement of the Field Examiner, introduced in evidence at the hearing, indicates that the Pattern Makers represents a substantial number of employees in the unit which it claims to be appropriate.³

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 Steelworkers contends that the Company's pattern makers are part of the plant-wide industrial unit which it claims to be appropriate, or, in the event that separate units of employees in the foundry and in the machine and shell shops are found to be appropriate, the pattern makers should constitute part of the foundry unit. The Machinists takes the position that the pattern makers constitute part of the machine and shell shops unit, contending that the pattern makers were among those referred to as "maintenance" employees in the Board's prior decision directing an election in that voting group.⁴

The record discloses that the Pattern Makers did not have notice of the pendency of representation proceedings involving the employees in the Company's foundry and in the machine and shell shops until shortly before the elections conducted by the Board in those groups, and immediately upon learning thereof filed its petition seeking a separate unit of the Company's pattern makers.⁵ The record also discloses that the Company's pattern shop is a department physically separated from the rest of the machine shop building, where the pattern makers, of whom there were four at the time of the hearing,

³ The Field Examiner reported that the Pattern Makers submitted membership ledger books covering the month of December 1943 and containing the names of five individuals claimed to be within the appropriate unit. Four of the names so submitted are found on the Company's pay roll of December 19, 1943, containing four names within the unit claimed to be appropriate. The Steelworkers and the Machinists stated at the hearing that they do not claim any membership among the employees in the unit sought by the Pattern Makers.

⁴ See footnote 2, *supra*.

⁵ It was stipulated by the parties at the hearing that the Pattern Makers was not referred to in the petition in Case No. 5-R-1403, as being a labor organization having a possible interest, and was not included in the Notice of Hearing issued with respect to that case. The General President of the Pattern Makers testified that his organization first learned of the pendency of that case on January 16, 1944, which was 3 days before the elections directed by the Board were scheduled to be held. The Pattern Makers filed its original petition herein on January 17, 1944, and in view thereof, pattern makers who presented themselves at the polls during the elections were permitted to vote only under challenge.

are engaged solely in the production and repair of patterns for use in the Company's foundry. Although the pattern makers sometimes enter the foundry for purposes connected with the repair of patterns, there is no interchange of employees between the pattern shop and any other department of the Company. Each of the pattern makers has maintained membership for a number of years in the Pattern Makers, and all testified at the hearing that they desired that organization to represent them. We have in numerous cases found pattern makers to constitute a well recognized and clearly defined craft such as may appropriately constitute a separate bargaining unit.⁶ No reason here appears why the pattern makers may not constitute such a unit.

The Pattern Makers seeks to include an employee, Herd Hampton Houston, who is classified by the Company as a leadman in the pattern shop. He is engaged in the same type of work as the other employees in the pattern shop, but has the additional duty of assigning jobs of pattern making and repair to the other pattern makers. He is responsible for the proper completion of jobs to the superintendent of maintenance, but has no power to hire, discharge, discipline, or to recommend hiring or discharging. Although this employee testified that he was of the opinion that probably he could effectively recommend discipline, he admitted never having exercised such authority. Upon the record as a whole, we are of the opinion that he is not a supervisory employee within the meaning of our customary definition; we shall therefore include him in the unit.

We find that all journeymen pattern makers and their apprentices employed by the Company, including the leadman, but 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.

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V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question which has arisen concerning representation of the pattern makers be resolved by an election by secret ballot among the employees in the appropriate pattern makers' 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.

⁶ See *Matter of Cramp Shipbuilding Company*, 53 N. L. R. B. 762, *Matter of Ordnance Steel Foundry Company*, 47 N. L. R. B. 273; *Matter of Bethlehem Steel Company (Shipbuilding Division)*, 40 N. L. R. B. 922.

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 Maryland Sanitary Manufacturing Corporation, Baltimore, Maryland, 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 Fifth 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 pattern makers' 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 Pattern Makers League of North America, affiliated with the American Federation of Labor, for the purposes of collective bargaining.

SUPPLEMENTAL DECISION

In the Decision in Case No. 5-R-1403,⁷ the Board made no determination of the appropriate unit or units, but stated that if the employees of both groups chose the Steelworkers they would constitute a single appropriate unit; if not, each of the groups that selected a bargaining representative would separately constitute an appropriate unit.

Following the elections which were held among the employees in the foundry and in the machine and shell shops, Tallies of Ballots were furnished the parties in accordance with the Rules and Regulations of the Board. No objections were filed by any of the parties within the time provided therefor. The tallies show that of the approximately 553 eligible voters in the foundry voting group, 373 cast valid votes, of which 287 were for United Steelworkers of America, C. I. O., 76 for International Molders and Foundry Workers Union of North America, A. F. L., and 10 against the participating unions; 3 ballots

⁷ See footnote 2, *supra*.

were challenged, and 4 were void. The tallies further show that of the approximately 113 eligible voters in the machine and shell shops group, 85 cast valid votes, of which 44 were for United Steelworkers of America, C. I. O., 32 for International Association of Machinists, A. F. L., and 9 against the participating unions; 1 ballot was challenged.⁸

Upon the entire record in both cases, the Board makes the following:

SUPPLEMENTAL FINDINGS OF FACT

We find that all production employees in the Company's foundry and all production and maintenance employees in the Company's machine and shell shops, including leadmen, but excluding guards, first aid and clerical employees, pattern makers, 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.

CERTIFICATION OF REPRESENTATIVES

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, Sections 9 and 10, of National Labor Relations Board Rules and Regulations—Series 3,

IT IS HEREBY CERTIFIED that United Steelworkers of America, C. I. O., has been designated and selected by a majority of all production employees in the foundry, and all production and maintenance employees in the machine and shell shops, of Maryland Sanitary Manufacturing Corporation, Baltimore, Maryland, including leadmen, but excluding guards, first aid and clerical employees, pattern makers, 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, as their representative for the purposes of collective bargaining, and that pursuant to Section 9 (a) of the Act, the said organization is the exclusive representative of all such employees for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other conditions of employment.

⁸ The Amendment to Tallies of Ballots issued by the Regional Director on January 20, 1944, discloses that the above tabulation does not include the challenged ballots cast by the pattern makers. In view of our finding that the pattern makers do not constitute part of either voting group in the above-mentioned elections, it is apparent that the results of these elections cannot be determined by the remaining challenged ballots; we therefore find it unnecessary to make any determination with respect thereto.