

In the Matter of WEST VIRGINIA STEEL CORPORATION *and* DISTRICT
50, UNITED MINE WORKERS OF AMERICA

Case No. 9-R-1336.—Decided March 28, 1944

Mr. Henry P. Butts, of Charleston, W. Va., for the Company.

Mr. E. E. Hollyfield, of Charleston, W. Va., for the Union.

Miss Fannie M. Boyls, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by District 50, United Mine Workers of America, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of West Virginia Steel Corporation, Charleston, West Virginia, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Thomas E. Shroyer, Trial Examiner. Said hearing was held at Charleston, West Virginia, on February 24, 1944. The Company and the Union appeared and participated.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 an 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

West Virginia Steel Corporation, a West Virginia corporation, has its principal place of business at Charleston, West Virginia, where

¹ International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local 175, A. F. of L., herein called the Teamsters' Union and International Association of Bridge Structural and Ornamental Iron Workers, labor organizations which in the past had manifested an interest in employees of the Company, were each duly served with notice of the hearing, but neither appeared.

it is engaged principally in the fabrication of structural steel. It uses more than 4,000 tons of raw steel annually, almost all of which comes to it from outside West Virginia. Almost all of its finished products, valued in excess of \$500,000, are shipped outside the State. The Company employs approximately 125 production and maintenance employees. It admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

District 50, United Mine Workers of America, Local Union 12804,² is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the Union as the exclusive bargaining representative of its employees until the Union has been certified by the Board in an appropriate unit.

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

We find, in accordance with a stipulation of the parties, that all production and maintenance employees of the Company, including truck drivers⁴ and toolroom attendants, but excluding office-clerical employees, shipping clerks, the regular full-time janitor,⁵ and supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or

² The Local of the Union, which was chartered after the filing of the petition and which admits to membership the Company's employees, is #12804. The Union's request that its name appear on the ballot as above designated is granted.

³ The Field Examiner reported that there are 125 employees in the appropriate unit; that the Union submitted 122 membership cards; and that 100 cards were dated prior to December 31, 1943, 18 were dated January 1944, and 4 were undated.

⁴ During the course of the hearing the Trial Examiner received a letter from an officer of the Teamsters' Union, in which the Teamsters' Union, although not purporting to represent any employees of the Company, objected to the inclusion of the truck drivers and warehousemen in the same unit with other employees. Inasmuch as no evidence was offered or introduced in support of this contention, the Trial Examiner properly refused to admit the letter in evidence.

⁵ The parties agreed that one employee whose time is about equally divided between production work and janitor's work in the production departments and who is paid on the same basis as other production employees should be included within the unit; we shall include him.

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

The Union urges that the pay roll nearest the date of the hearing should be used to determine eligibility to vote. However, we do not believe that the record discloses any valid reason for departing from our usual practice of using a current pay-roll date.

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 West Virginia Steel Corporation, Charleston, West Virginia, 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 Ninth 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 50, United Mine Workers of America, Local Union 12804, for the purposes of collective bargaining.