

IN THE MATTER OF REPUBLIC STEEL CORPORATION, STEEL & TUBE DIVISION,
ELYRIA PLANT and UNITED STEELWORKERS OF AMERICA (CIO)

Case No. 8-R-1434.—Decided March 31, 1944

Messrs. E. J. Magee, George R. Rauschenberg, and Raymond Lewis,
all of Cleveland, Ohio, for the Company.

Mr. Michael A. Melia, of Cleveland, Ohio, for the CIO.

Messrs. William J. Moore and Milne E. O'Dell, of Elyria, Ohio, for
the Association.

Mr. William Strong, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Steelworkers of America, (CIO), herein called the CIO, alleging that a question affecting commerce had arisen concerning the representation of employees of Republic Steel Corporation, Steel & Tubes Division, Elyria Plant, Elyria, Ohio, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Louis Plost, Trial Examiner. Said hearing was held at Cleveland, Ohio, on March 4, 1944. The Company, the CIO, and the Employees Representation Association, Steel and Tubes, (Independent), herein called the Association, appeared and participated. 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

The Company, a New Jersey corporation, is engaged in the manufacture, sale, and distribution of iron and steel products. Its princi-
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pal plants are located at Youngstown, Warren, Cleveland, Canton, Massillon, Niles, and Elyria, Ohio; Brooklyn and Buffalo, New York; Chicago and Moline, Illinois; Pittsburgh and Beaver Falls, Pennsylvania; Gary, Indiana; Birmingham and Gadsden, Alabama; and Hamilton, Ontario, Canada. The Company obtains more than one-half of its requirements of iron ore and coal from its own mines and the balance from mines of companies in which it has an interest, and by purchase from others. The Company and its subsidiaries own or hold under lease iron ore properties in Michigan, New York, and Alabama, and coal properties in Pennsylvania, Kentucky, and West Virginia. Substantial tonnages of raw material used at each of the Corporation's plants and properties are received from points outside the States in which the respective plants at which such material is used are located. Substantial tonnages of finished products are shipped from each of said plants to points outside the States in which the plants are located.

The Elyria plant is the only one with which we are here concerned.

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

II. THE ORGANIZATIONS INVOLVED

United Steelworkers of America, affiliated with the Congress of Industrial Organizations, and Employees Representation Association, Steel and Tubes, (Independent) are labor organizations admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the CIO as the exclusive bargaining representative of certain of the Company's employees on the ground that the Company is a party to a contract with the Association covering the employees whom the CIO claims to represent. The contract in question, executed in September 1942, is of indefinite duration and provides that proposed changes may be negotiated upon 10 days' written notice by either party, and that it will become abrogated if no change is thereafter agreed upon by the parties. We find that the contract is not a bar to a present determination of representatives.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the CIO represents a substantial number of employees in the unit hereinafter found appropriate.¹

¹The Field Examiner reported that the CIO submitted 162 authorization cards, 153 of which bore the names of persons listed on the Company's pay roll of February 21, 1944, which contained the names of about 200 employees in the appropriate unit. The Association points to its contract with the Company as evidencing its interest in the employees involved.

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 substantial agreement with a stipulation of the parties, that all production and maintenance employees of the Company at its Elyria, Ohio, plant, Steel & Tubes Division, excluding executives, foremen, assistant foremen, supervisors who do not work with tools, draftsmen, timekeepers, first-aid men and nurses, watchmen, office and salaried employees, and any 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.²

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 Republic Steel Corporation, Steel & Tubes Division, Elyria Plant, Elyria, Ohio, 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 Eighth 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, who were employed during the pay-roll period immediately preceding the date of this Direction, including employees who did not work during the said pay-roll period because they were ill or on vacation or temporarily laid off, and

² This is the unit covered by the contract between the Company and the Association.

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 they desire to be represented by United Steelworkers of America, affiliated with the Congress of Industrial Organizations, or by the Employees Representation Association, Steel and Tubes, (Independent) for the purposes of collective bargaining, or by neither.