

In the Matter of NORTH AMERICAN AVIATION, INC., OF KANSAS and UNITED AUTOMOBILE, AIRCRAFT AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, C. I. O.

In the Matter of NORTH AMERICAN AVIATION, INC., OF KANSAS and UNITED AUTOMOBILE, AIRCRAFT AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, AFFILIATED WITH THE C. I. O.

*Cases Nos. 17-R-808 and 17-R-829, respectively.—Decided April 5, 1944*

*Mr. Carl E. Enggas, of Kansas City, Mo., for the Company.*

*Messrs. Harry C. Clark and Frank Dowell, both of Kansas City, Mo., for the Union.*

*Mr. David V. Easton, of counsel to the Board.*

DECISION  
AND  
DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon a petition and an amended petition duly filed by United Automobile, Aircraft and Agricultural Implement Workers of America, affiliated with the C. I. O., herein called the Union, alleging that questions affecting commerce had arisen concerning the representation of employees of North American Aviation, Inc., of Kansas City, Kansas, herein called the Company, the National Labor Relations Board consolidated the cases and provided for an appropriate hearing upon due notice before Elmer L. Hunt, Trial Examiner. Said hearing was held at Kansas City, Missouri, on March 15, 1944. The Company and the Union 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.

55 N. L. R. B., No. 188.

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

## FINDINGS OF FACT

### I. THE BUSINESS OF THE COMPANY

North American Aviation, Inc., of Kansas, a Delaware corporation duly qualified to do business in the State of Kansas, operates a plant erected and owned by the United States Government and located at Kansas City, Kansas. We are concerned herein solely with the Company's operations at said plant. The Company manufactures at the Kansas City plant, airplanes, airplane parts, and accessories under contract with the United States Government. During the year 1943, the Company's monthly purchases of raw materials for use at said plant were in excess of \$100,000, 95 percent of which was obtained from points outside the State of Kansas. During the same period, the Company manufactured finished products at the Kansas City plant at a rate of more than \$100,000 per month, all of which was delivered to the United States Government under the terms of the contract between it and the Company.

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

### II. THE ORGANIZATION INVOLVED

United Automobile, Aircraft and Agricultural Implement Workers of America is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

### III. THE QUESTIONS CONCERNING REPRESENTATION

On or about December 22, 1943, the Union requested recognition from the Company as the bargaining representative of its employees engaged as firemen and militarized guards.<sup>1</sup> Thereafter, on or about February 9, 1944, the Union made a similar request with respect to employees of the Company engaged as drivers and guides.<sup>2</sup> The Company refused both requests in the absence of certification by the Board.

Statements of a Board Field Examiner, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in each of the units hereinafter found appropriate.<sup>3</sup>

<sup>1</sup> Case No. 17-R-808. The amended petition in this proceeding, however, does not include firemen within the proposed unit, and the Union did not claim such employees at the hearing.

<sup>2</sup> Case No. 17-R-829. At the hearing, the Union amended its petition by substituting the word "chauffeurs" for the words "drivers and guides," and, as hereinafter indicated, both parties agreed upon the propriety of this proposed unit.

<sup>3</sup> As part of his investigation in Case No. 17-R-808, the Field Examiner reported that the Union submitted 58 designations bearing apparently genuine original signatures and

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 UNITS

##### A. *Case No. 17-R-808*

The Union, currently representing the production and maintenance employees of the Company, seeks to represent in a separate unit, all militarized guards employed by the Company exclusive of sergeants and other supervisory employees possessing authority to hire, discharge, or recommend such action. Without disputing the appropriateness of the inclusions and exclusions of the proposed unit, the Company contends that such employees are agents of management, and are therefore not properly subject to organization for the purposes of collective bargaining, particularly by the same labor organization which represents the production and maintenance employees. We find no merit in these contentions.<sup>4</sup>

Accordingly, we find that all militarized guards of the Company, excluding sergeants 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.

##### B. *Case No. 17-R-829*

Substantially in accordance with an agreement of the parties made at the hearing, we find that all chauffeurs of the Company 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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containing the names of persons appearing upon the Company's pay roll of January 9, 1944. He further reported that said pay roll listed the names of 193 employees in the proposed unit.

As part of his investigation in Case No. 17-R-829, the Field Examiner reported that the Union submitted 9 designations bearing apparently genuine original signatures and containing the names of persons appearing upon the Company's pay roll of January 29, 1944. He further reported that said pay roll listed the names of 11 employees in the unit proposed in this proceeding.

<sup>4</sup> *Matter of Dravo Corporation*, 52 N. L. R. B. 322.

## V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the questions concerning representation which have arisen be resolved by separate elections by secret ballot among the employees in the appropriate units who were employed during the pay-roll period immediately preceding the date of the Direction of Elections herein, subject to the limitations and additions set forth in the Direction.

## DIRECTION OF ELECTIONS

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 North American Aviation, Inc., of Kansas, Kansas City, Kansas, separate elections 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 Seventeenth 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 units 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 elections, to determine whether or not they desire to be represented by United Automobile, Aircraft and Agricultural Implement Workers of America, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.

CHAIRMAN MILLIS took no part in the consideration of the above Decision and Direction of Elections.