

In the Matter of GENERAL CABLE CORPORATION *and* LOCAL 208, UNITED
RUBBER WORKERS OF AMERICA, C. I. O.

Case No. 3-R-714.—Decided April 8, 1944

Mr. A. Leon Fergenson, of New York City, for the Company.

Mr. H. R. Lloyd, of Akron, Ohio, for the Union.

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

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Local 208, United Rubber Workers of America, C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of General Cable Corporation, Buffalo, New York, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Peter J. Crotty, Trial Examiner. Said hearing was held at Buffalo, New York, on January 28, 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 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

General Cable Corporation, a New Jersey corporation, is engaged in the manufacture of wire and cable. For this purpose it operates a plant located in Buffalo, New York, with which we are concerned herein. During the calendar year 1943, the Company used at said plant raw materials valued in excess of \$1,000,000, of which more than 50 percent represents shipments made to said plant from points outside the State of New York. During the same period the Company manu-

factured finished products at said plant having a value in excess of \$1,000,000 of which more than 50 percent was shipped to points located outside the State of New York. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

Local 208, United Rubber Workers of America, is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

By letter dated October 15, 1943, the Union requested recognition of the Company as the collective bargaining representative of certain of its employees. On October 21, 1943, the Company replied thereto stating that the Company would not negotiate with respect to the employees involved in the unit proposed by the Union unless and until the Union was certified as the bargaining representative by the National Labor Relations Board.

A statement of the Field Examiner, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found 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 seeks a unit composed of all salaried employees in the office and plant of the Company, excluding supervisory and confidential employees.

Both the Union and the Company are in agreement that those classifications of employees set forth in Appendix "A", attached hereto, should be excluded from the unit. They are in disagreement, however, with respect to the classifications hereinafter discussed, which the Union desires to include within the unit, but which the Company desires to exclude therefrom.

Administrative Assistant to the Assistant Plant Accountant: This employee performs various clerical and secretarial duties, including the transmission and following up of orders from the assistant plant accountant to the employees working under his supervision. As noted in Appendix "A" attached hereto, all parties agree upon the

¹ The Field Examiner reported that the Union submitted 82 designations of which 64 bore apparently genuine and original signatures, and contained the names of persons appearing upon the Company's pay roll of November 29, 1943; and that said pay roll contained the names of 100 persons within the proposed unit.

exclusion of the assistant plant accountant and we are of the opinion that the close relationship between this employee and his administrative assistant is sufficient to warrant the latter's exclusion. Accordingly, we shall exclude her.

Junior Accountant: This employee is in charge of all information with respect to the accounts payable of the Company. She does not, however, have access to matters relating to labor relations. Accordingly, we shall include her within the unit.

Secretaries: The secretary-stenographer to the Plant Engineer, the secretary to the Superintendent of Product Inspection, and the secretary to the Supervisor of Production Planning are private secretaries, performing the duties usual to this classification. Since the Superintendent of Product Inspection, the Supervisor of Production Planning, and the Plant Engineer occupy supervisory positions in the Company, it would appear that the foregoing titled employees, and in turn their private secretaries, have access to advance information concerning labor relations. Accordingly, we shall exclude the secretaries from the unit.

Senior clerk and Schedule Clerk: These employees, attached to the Planning Department, collect information with respect to the availability of raw materials. Although they make records which are considered by the Company as confidential with respect to the conduct of its business, these records are not concerned with labor relations policies of the Company. Accordingly, we shall include these employees within the unit.

Personnel Department: This department is divided into six subdivisions: we are concerned herein with the employees engaged in four of these.² These employees are located in a single large room and in a few small rooms adjacent thereto, and the record indicates that there is some interchange of personnel between the four sections. The files of the department are situated within the large room or in the office of the personnel manager and contain the records of the Company relating to employment, complaints, grievances, disciplinary actions, and other personnel matters. Both sets of files, although locked at night, are open during the working day, and are available to the employees in the four sections in the regular course of their duties. We are of the opinion that these employees fall within our customary definition of a confidential employee, and we shall therefore exclude them.³

² Employment, health, training, and employee relations. The other two sections, Safety and Cafeteria, consist either of supervisory employees excluded by agreement between the parties, or employees who are part of the production and maintenance unit currently represented by the Union herein.

³ See *Matter of Chrysler Corporation*, 36 N. L. R. B. 157 at 163; *Matter of Babcock and Wilcox*, 52 N. L. R. B. 900; *Matter of General Motors Corporation*, 53 N. L. R. B. 1096.

P. B. X. Operators: A group of employees operate the switchboard, the automatic telegraph machine, and the various telegraphic services used by the Company. Although they may have occasion to transmit and receive messages which concern the labor relations of the Company, the normal performance of their duties does not afford access to such information. Accordingly, we are of the opinion that these employees are not confidential, and shall therefore include them within the unit.

In accordance with the foregoing, we find that all salaried employees in the Buffalo office and plant of the Company, including the junior accountant, the senior clerk and the schedule clerk in the planning department, and P. B. X. Operators, but excluding employees listed on Appendix A attached hereto, employees in the employment, health, training, and employee relations sections of the personnel department, the administrative assistant to the assistant plant accountant, secretary-stenographer to the Plant Engineer, secretaries to the Superintendent of Product Inspection and Supervisor of Production Planning, 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.

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.⁴

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 General Cable Corporation, Buffalo, New York, 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 Third Region, acting in this matter as

⁴ The Union requested that it be designated upon the ballot as "Local 208, United Rubber Workers of America, C. I. O." This request is hereby granted

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 employees 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 Local 208, United Rubber Workers of America, C. I. O., for the purposes of collective bargaining.

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

APPENDIX A

Plant Manager

Secretary

Secretary-Stenographer in the Plant Manager's office

Personnel Manager

Assistant to the Personnel Manager

Head Matron

Nurses

Supervisors in the Personnel Department

Employees in the Plant Protection Department

Superintendent and Assistant Superintendent of Product Inspection

Plant and Assistant Plant Engineers

Equipment, Industrial, Products and Layout Managers

Chief Draftsman

Purchasing Agent

Assistant to the Purchasing Agent

Plant and Assistant Plant Accountant

Clerical Supervisors

Senior Accountants and Cost Estimators in the Accounting Department

Supervisors of Factory Accounting

Supervisor and Assistant Supervisor of Production Planning

Plant Chemist

Rubber Technician

Contract Analyst

Superintendent of Material Handling

Supervisor of Time Study

Senior and Junior Time Study Managers