

IN THE MATTER OF SCULLIN STEEL COMPANY and AMERICAN FEDERATION
OF LABOR, ITS AFFILIATED INTERNATIONAL UNIONS, AND INTERNA-
TIONAL ASSOCIATION OF MACHINISTS, DISTRICT NO. 9

Case No. 14-R-729.—Decided April 24, 1944

Carter, Bull & Garstang, by *Mr. James E. Garstang*, of St. Louis, Mo., for the Company.

Mr. Joseph A. Padway, by *Mr. Robert A. Wilson*, of Washington, D. C., for the AFL.

Mr. Robert W. Hall, of St. Louis, Mo., for the Independent.

Messrs. Victor B. Harris and Lloyd McBride, both of St. Louis, Mo., for the CIO.

Mr. Thomas M. Conway, of St. Louis, Mo., for the Weldors.

Mr. Glenn L. Moller, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

Upon a petition duly filed by American Federation of Labor, its affiliated International Unions, and International Association of Machinists, District No. 9, herein called the AFL, alleging that a question affecting commerce had arisen concerning the representation of employees of Scullin Steel Company, St. Louis, Missouri, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Keith W. Blinn, Trial Examiner. Said hearing was held at St. Louis, Missouri, on March 9, 1944. The Company, the AFL, United Steelworkers of America, CIO, herein called the CIO, Independent Steelworkers' Organization, herein called the Independent, and United Brotherhood of Weldors, Cutters and Helpers of America, Local #15, herein called the Weldors, appeared and participated.¹ All parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to in-

¹ Bricklayers Union No 1 of Missouri, affiliated with the American Federation of Labor, appeared at the hearing and participated therein, but did not move to intervene. All parties stipulated that bricklayers and their apprentices should be excluded from the unit here involved.

roduce 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

Scullin Steel Company, a Missouri corporation, with its principal office and plant in the City of St. Louis, Missouri, is engaged in the manufacture, sale, and distribution of iron and steel products, consisting of undercarriages for railroad cars, steel castings, cast armor, and other miscellaneous products.

During the year 1942, there were shipped each month to the Company's St. Louis plant, raw materials valued at approximately \$300,000. Over 50 percent of the aforesaid raw materials was shipped to the said plant from points outside the State of Missouri. During the same period, the Company each month sold and distributed finished products valued at approximately \$700,000, of which about 70 percent was shipped from the Company's plant in St. Louis to points outside the State of Missouri.

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

II. THE ORGANIZATIONS INVOLVED

American Federation of Labor and its affiliated International Unions, and International Association of Machinists, District No. 9, all affiliated with the American Federation of Labor, are labor organizations admitting to membership employees of the Company.

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

Independent Steelworkers' Organization is an unaffiliated labor organization admitting to membership employees of the Company.

United Brotherhood of Weldors, Cutters and Helpers of America, Local #15, is an unaffiliated labor organization admitting to membership employees of the Company.

III. THE ALLEGED QUESTION CONCERNING REPRESENTATION

On June 25, 1943, the AFL requested recognition as the exclusive bargaining representative of the Company's production and maintenance employees. The Company refused to extend such recognition

on the ground that the employees involved were covered by a recently renewed contract with the Independent.²

An examination of the evidence upon which the AFL's representation claim is based leads us to the conclusion that no sufficient showing has been made among the employees involved to warrant further investigation. A statement of the Acting Regional Director, introduced into evidence at the hearing, indicates that the AFL submitted 1,676 authorization cards, only 913 of which bore the names of persons listed on the Company's pay roll of January 22, 1944, and that said pay roll contains the names of 3,670 persons in the unit sought to be represented by the AFL. The statement further discloses that the CIO submitted only 261 authorization cards, of which 192 bore signatures of persons listed on the aforesaid pay roll, while the Weldors submitted 12 cards, 11 of which bore signatures of persons listed on the aforesaid pay roll. The unit to be represented by the Weldors contains 134 employees.³

We find that no question has arisen concerning the representation of employees of the Company and shall order that the petition be dismissed.

ORDER

Upon the basis of the foregoing findings of fact, the National Labor Relations Board hereby orders that the petition for investigation and certification of representatives of employees of Scullin Steel Company, St. Louis, Missouri, filed by American Federation of Labor, its affiliated International Unions, and International Association of Machinists, District No. 9, be, and it hereby is, dismissed.

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

² The petitioner contends that the Independent's contract is not a bar because of certain language contained therein. This contract might conceivably be a bar at this time to a representation proceeding, but it is unnecessary to consider this contention in view of the insubstantial showings of the unions here seeking to displace the Independent.

³ The AFL and CIO urge that the Board should find that the above showings are substantial in view of the pendency of unfair labor practice charges against the Company. Where the Board has found that the employer has engaged in unfair labor practices, and such unfair labor practices have not been remedied, we have held that the circumstances may justify proceeding upon a petition for determination of representatives even though the petitioner's showing of representation is less than would normally be required. See *Matter of Humble Oil & Refining Company*, 53 N. L. R. B. 116. This principle is inapplicable, however, where, as here, the alleged unfair labor practices have not been made the subject of a hearing and Board order.