

IN the Matter of THE FIRESTONE TIRE AND RUBBER COMPANY and LAKE CHARLES METAL TRADES COUNCIL, AFFILIATED WITH AMERICAN FEDERATION OF LABOR

Case No. 15-R-1069.—Decided April 24, 1944

Mr. T. S. Markey, of Akron, Ohio, for the Company.

Mr. Joseph Blasi, of New Orleans, La., for the Union.

Mr. Joseph W. Kulkis, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Lake Charles Metal Trades Council, affiliated with American Federation of Labor, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of The Firestone Tire and Rubber Company, Lake Charles, Louisiana, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before LeRoy Marceau, Trial Examiner. Said hearing was held at New Orleans, Louisiana, on March 31, 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

The Firestone Tire and Rubber Company, an Ohio corporation having its principal office at Akron, Ohio, operates a plant at Lake Charles, Louisiana, where it is engaged as operating agent for the Rubber Reserve Company in the manufacture of synthetic rubber. During the

period between December 14, 1943, and January 15, 1944, the Company at its Lake Charles plant produced well in excess of 500 tons of synthetic rubber. Ninety-five percent of the raw materials used at the Lake Charles plant is received from points outside the State of Louisiana; and at least 95 percent of the rubber produced is shipped to points outside the State of Louisiana.

We find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

Lake Charles Metal Trades Council, affiliated with American Federation of Labor, is a labor organization admitting to membership employees of the Company's Lake Charles, Louisiana, plant.

III. THE QUESTION CONCERNING REPRESENTATION

The Union desires the Company to bargain collectively with it as the exclusive representative of all employees in the alleged unit. The Company refuses to accord the Union such recognition unless and until it is certified by the Board.

A statement of the Field Examiner of the Board, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees within the unit hereinafter found to be 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 contends that all production and maintenance employees of the Company at the Lake Charles plant, including cafeteria workers, but excluding foremen, full-time supervisors, timekeepers, clerks (except shipping and receiving clerks), office and other salaried employees, plant protection employees (Police and Fire Departments), and technicians, constitute an appropriate unit. The Company agrees that such a unit would ordinarily be appropriate, but contends as hereinafter discussed, that it is inappropriate because of the expanding nature of the Company's operations.

We find that all production and maintenance employees of the Company at the Lake Charles plant, including cafeteria workers, but ex-

¹ The report of the Field Examiner shows that the Union submitted a petition with 252 signatures; of which 251 appear on the March 18, 1944, pay roll of the Company, which contains the names of 440 persons within the alleged appropriate unit.

cluding timekeepers, clerks (except shipping and receiving clerks), office and other salaried employees, plant protection employees (Police and Fire Departments), technicians, foremen, full-time supervisors, and all other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of the 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

As referred to hereinabove, the Company contends that, because its plant is in the process of expansion, no election should be ordered at this time.

The Company's plant consists of two units for the production of synthetic rubber, each unit having a rated capacity of 30,000 tons a year. The Company began operation of the first unit on September 1, 1943, and is now operating at near capacity. The second unit was begun on March 1, 1944, but at present, the operations are still less than 10 percent of capacity. The Company expects to have its second unit physically in shape for maximum production by May 1, 1944. The Company now employs a total of about 550 employees, of whom about 425 are in the appropriate bargaining unit. When maximum production is attained, the Company expects to employ about 900 employees, of whom 725 will be in the appropriate bargaining unit. Inasmuch as the present employment in the plant has reached 59 percent of the anticipated maximum, we find, contrary to the contention of the Company, that the expanding nature of operations does not render the unit inappropriate,² and that an election may properly be directed at this time.

We shall direct that the question concerning representation which has arisen be resolved by means of 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

² See *Matter of Fairchild-Aircraft Division of Fairchild Engine & Airplane Corporation*, 50 N. L. R. B. 113.

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with The Firestone Tire and Rubber Company, Lake Charles, Louisiana, 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 Fifteenth 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 election, to determine whether or not they desire to be represented by Lake Charles Metal Trades Council, affiliated with American Federation of Labor, for the purposes of collective bargaining.