

In the Matter of ROMEC PUMP COMPANY and INTERNATIONAL ASSOCIATION OF MACHINISTS (AFL) LODGE #1761

Case No. 8-R-1436.—Decided April 29, 1944

Messrs. King Fauver and M. L. Mathews, of Elyria, Ohio, for the Company.

Mr. D. C. Brown, of Akron, Ohio, for the IAM.

Mr. William Strong, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by International Association of Machinists (AFL), Lodge #1761, herein called the IAM, alleging that a question affecting commerce had arisen concerning the representation of employees of Romec Pump Company, Elyria, Ohio, herein called the Company,¹ the National Labor Relations Board provided for an appropriate hearing upon due notice before Arthur Stark, Trial Examiner. Said hearing was held at Cleveland, Ohio, on March 31, 1944. The Company and the IAM appeared and participated.² 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

Romec Pump Company, an Ohio corporation, operates 2 plants in Elyria, Ohio, where it manufactures fuel and oil pumps for air-

¹ The name of the Company was amended at the hearing.

² Although Notice of Hearing was also served on Romec Employees' Independent Labor Association, Inc., herein called the Association, it did not appear at the hearing.

planes, and related items. During 1943 the Company used raw materials valued in excess of \$500,000, more than 50 percent of which was brought into Ohio from sources outside that State. During the same period the Company manufactured finished products valued in excess of \$2,000,000, more than 60 percent of which was shipped to points outside the State of Ohio.

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

II. THE ORGANIZATIONS INVOLVED

International Association of Machinists, Lodge #1761, affiliated with the American Federation of Labor, and Romecc Employees Independent Labor Association, Inc., are labor organizations admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the IAM as the exclusive bargaining representative of certain of the Company's employees on the ground that there is in existence a contract between the Company and the Association embracing the employees whom the IAM seeks to represent. The contract was executed on April 1, 1943, is for a 1-year term and is self-renewable thereafter unless notice of desired termination is given by either party to the contract at least 30 days prior to the annual anniversary date of the contract. Since the IAM notified the Company of its representation claims on about February 7, 1944, the Company received due and timely notice within the period provided by the contract. We find that the contract is no bar to this proceeding.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the IAM represents a substantial number of employees in the unit hereinafter found appropriate.³

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 employees of the Company at both its plants in Elyria, Ohio, including job setters and truck drivers, but excluding salaried em-

³ The Field Examiner reported that the IAM submitted 259 authorization cards, 175 of which bore the names of persons appearing on the Company's pay roll of March 8, 1944, which contained the names of 570 employees in the appropriate unit.

ployees, firemen, guards, tool designers, employees in the welfare department, timekeepers, watchmen, clerks, foremen and assistant foremen 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 Romec Pump Company, 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, 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 election, to determine whether they desire to be represented by International Association of Machinists, Lodge #1761, affiliated with the American Federation of Labor, or by Romec Employees' Independent Labor Association, Inc., for the purposes of collective bargaining, or by neither.

⁴In view of the fact that the Association is party to a contract with the Company embracing the employees in the appropriate unit, we shall include the Association on the ballot. See, e' g., *Matter of Willys Overland Motors, Inc.*, 55 N. L. R. B. 376.