

In the Matter of LEADER IRON WORKS, INC. and UNITED AUTOMOBILE  
WORKERS OF AMERICA, DISTRICT #8, AFL.

*Case No. 13-R-2343.—Decided April 29, 1944*

*Mr. Arthur F. Delahunty*, of Boland & Delahunty, of Decatur, Ill.,  
and *Mr. W. F. Canavan*, of Decatur, Ill., for the Company.

*Mr. Leonard E. Cranfill*, of Decatur, Ill., for the United Automobile  
Workers of America, affiliated with the A. F. of L.

*Mr. Bert Tavender*, of St. Louis, Mo., and *Mr. H. I. Bundy*, of De-  
catur, Ill., for the United Steelworkers of America, CIO.

*Mrs. Margaret L. Fassig*, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Automobile Workers of America, District #8, AFL, herein called the U. A. W., alleging that a question affecting commerce had arisen concerning the representation of employees of Leader Iron Works, Inc., at Decatur, Illinois, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Jack G. Evans, Trial Examiner. Said hearing was held at Decatur, Illinois, on March 24, 1944. The Company, the U. A. W., and United Steelworkers of America, Local Union #1103, CIO, herein referred to as the Steelworkers, appeared and participated. All parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. The Steelworkers made a motion at the hearing to dismiss the petition herein on the ground that its contract with the Company is a bar to the proceedings, and the Trial Examiner referred the motion to the Board. For reasons hereinafter stated, this motion is hereby denied. 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.

56 N. L. R. B., No. 31.

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

## FINDINGS OF FACT

### I. THE BUSINESS OF THE COMPANY

Leader Iron Workers, Inc., is a Delaware corporation, having its principal office and place of business at Decatur, Illinois. It is engaged in the fabrication of steel and other metal plate and operates a plant for that purpose at Decatur, Illinois. During the 12-month period prior to the hearing, the Company purchased raw materials such as steel, copper, and metal alloys, in excess of \$300,000 in value, of which more than 90 percent was received in interstate commerce; and during the same period the Company fabricated and distributed steel and other metal plate of a total value in excess of \$1,000,000, of which more than 70 percent was transported in interstate commerce.

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

### II. THE ORGANIZATIONS INVOLVED

United Automobile Workers of America, District #8, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

United Steelworkers of America, Local Union #1103, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

### III. THE QUESTION CONCERNING REPRESENTATION

By letter dated February 22, 1944, the U. A. W. advised the Company that the majority of the Company's employees had selected it as their bargaining agent and requested a meeting on February 26 to negotiate a contract. The Company replied by letter dated February 25 advising that for several years its employees had been represented by the Steelworkers with which the Company has a contract effective until May 1, 1944, and suggesting that the U. A. W. take proper action to establish its claim of representation. Also on February 25 the Company wrote to the Steelworkers advising the latter of the claim of representation it had received from the U. A. W. and asking whether the Steelworkers claimed to be the qualified representative of the Company's employees as their bargaining agent. The Steelworkers answered by letter of February 26 advising the Company that its contract with the Company would remain in full force and effect until May 1, 1944.

The Steelworkers and a predecessor union have had collective bargaining contracts with the Company since 1937. The current contract urged as a bar by the Steelworkers by its terms is to remain in full force and effect until May 1, 1944, inclusive, and contains a provision that 60 days before the end of the agreement, both parties shall start negotiations for a new agreement and in the event no agreement is reached, the present agreement shall be extended during further negotiations. This contract also contains the following clause as a proviso to recognition: ". . . that at any time during the life of this Agreement (if) a majority of the Company's employees choose to have some other union or organization represent them, the Company will then recognize the Union or organization so chosen by the employees as their duly authorized representative." The request for recognition as collective bargaining representative of the Company's employees was made by the U. A. W. on February 22, 1944, shortly prior to the 60-day period for negotiating changes in the present bargaining contract. In the circumstances we find that the notice given to the Company by the U. A. W. of its representation claim was timely, and that the contract is not a bar to a present determination of representatives.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the U. A. W. represents a substantial number of employees in the unit hereinafter found appropriate.<sup>1</sup>

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

In the petition the U. A. W. states that it considers all of the Company's production and maintenance employees, including time clerks, except for supervisors and office clericals, to constitute an appropriate unit. All parties agree that this in substance has been the bargaining unit represented by the Steelworkers and its predecessor since 1937. It was agreed that the employees to be excluded as supervisors are the general foreman, 3 assistant foremen, the supervisor of the time clerks, and the storekeeper. All the parties would include in the unit the supervisor of the labor gang. He does manual work but directs a crew of 6 to 10 men and receives about 12 percent higher pay than those under him. He has been in charge of the labor crew for 12 years, is con-

<sup>1</sup> The Field Examiner reported that the U. A. W. had submitted 65 authorization cards; that the names of 61 persons appearing on the cards were listed on the Company's pay roll of March 8, 1944, which contained the names of 94 employees in the appropriate unit; and that the cards were dated: 60 in February and 1 in January 1944. The Steelworkers submitted to the Trial Examiner at the hearing a list prepared by its financial secretary, of its members who had paid dues for the month of February 1944. The list contained 62 names, of which 57 were those of employees listed on the aforesaid pay roll.

sidered by the Company as a "key man" and has the authority to recommend changes in the status of employees. Although the parties agreed to his inclusion, he falls within our customary definition of supervisory employees and accordingly we shall exclude him from the unit.

The only minor controversy which developed regarding the appropriate unit was as to the Company's three watchmen. The Company desires their exclusion and both unions desire their inclusion. The watchmen are not armed, deputized or part of the military police. The one on the day shift acts as janitor and the other two as night watchmen. The watchmen have heretofore been inclined in the unit represented by the Steelworkers, but the Company recently requested the Steelworkers to withdraw their membership and accordingly the Steelworkers issued "inactive" cards to them. However, the Steelworkers as well as the U. A. W. desires the inclusion of the watchmen in the bargaining unit. In view of the long history of their inclusion in the bargaining unit, the fact they are neither armed nor deputized, and the desires of both unions, we shall include the watchmen in the appropriate unit.

We find that all production and maintenance employees, including time clerks and watchmen, but excluding office employees, the general foreman, the three assistant foremen, supervisor of the time clerks, the supervisor of the labor gang, the storekeeper, and all or any 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.

#### 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.

#### 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 Leader Iron

Works, Inc., Decatur, Illinois, 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 Thirteenth 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 those 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 they desire to be represented by United Automobile Workers of America, District #8, affiliated with the A. F. L., or by United Steelworkers of America, Local Union #1103, affiliated with the C. I. O., for the purposes of collective bargaining, or by neither.