

In the Matter of APEX MACHINE COMPANY, AND CHICAGO METAL HOSE CORPORATION and INTERNATIONAL ASSOCIATION OF MACHINISTS, DISTRICT No. 108, A. F. OF L.

Case No. 13-R-2313.—Decided April 29, 1944

Pope & Ballard, by Mr. John H. Thomson, and Mr. Thomas H. Ryan, of Chicago, Ill., for the Companies.

Messrs. P. L. Siemiller and R. W. Riddle, of Chicago, Ill., for the I. A. M.

Mr. Melton Boyd, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by International Association of Machinists, District No. 108, affiliated with the American Federation of Labor, herein called the I. A. M., alleging that a question affecting commerce had arisen concerning the representation of employees of Apex Machine Company and Chicago Metal Hose Corporation,¹ in their plant in Elgin, Illinois,² herein called the Companies and separately referred to as Apex Machine and Chicago Metal, the National Labor Relations Board provided for an appropriate hearing upon due notice before Francis X. Helgesen, Trial Examiner. This hearing was held at Chicago, Illinois, on March 22, 1944. The Companies and the I. A. M. 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 opportunity to file briefs with the Board.

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

¹ This is the correct name of this Company, stipulated by the parties at the hearing.

² The original petition was amended by interlineation on stipulation of the parties to relate to employees of the Elgin plant.

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANIES

Apex Machine Company is an Illinois corporation, having its executive offices in Maywood, Illinois, and its operating plant in Elgin, Illinois, where it is engaged principally in the manufacture of parts and accessories used in the manufacture and repair of flexible metal hose. During the year 1943, Apex Machine purchased raw material valued in excess of \$5,000, of which approximately 50 percent was shipped to it from outside the State of Illinois, and during that year it made sales of its products in excess of \$10,000, of which approximately 10 percent was delivered to purchasing agencies of the military forces of the United States, and approximately 90 percent was delivered to Chicago Metal Hose Corporation at the Elgin plant.

Chicago Metal Hose Corporation is an Illinois corporation, having its executive offices and principal place of business in Maywood, Illinois, and conducting a part of its manufacturing operations in its plant in Elgin, Illinois, where it is engaged principally in the manufacture of flexible metal hose. During the year 1943, Chicago Metal purchased raw materials valued in excess of \$5,000, of which approximately 50 percent was shipped to it from outside the State of Illinois, and during that year it made sales of its product in excess of \$10,000, all of which was delivered to purchasing agencies of the military forces of the United States.

Each of the Companies concedes that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

International Association of Machinists, District No. 108, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Companies.

III. THE QUESTION CONCERNING REPRESENTATION

The I. A. M. by similar letters dated February 7, 1944, notified each of the Companies that it represented a majority of the Companies' employees, and requested recognition as their exclusive bargaining agent. The Companies, by similar letters dated February 12, 1944, refused to recognize the I. A. M., suggesting that it submit the matter to the appropriate governmental agency.

The statement of a Board agent, admitted in evidence at the hearing, indicates that the I. A. M. represents a substantial number of employees in the unit herein found appropriate.³

³ A Field Examiner issued a report on his investigation stating that the I. A. M. had submitted 134 membership application cards dated in February 1944; 70 were signed by

We find that a question affecting commerce has arisen concerning the representation of employees of the Companies within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

IV. THE APPROPRIATE UNIT

The I. A. M. seeks a single unit comprised of all employees of both of the Companies, employed at the Elgin plant, excluding office and clerical employees, production engineering employees, cafeteria employees, guards, and supervisory employees. The Companies agree upon inclusion within the unit of the foregoing classifications of employees, but do not agree that the employees of both of the Companies should comprise a single unit.

Certain shareholders of Chicago Metal were the incorporators of Apex Machine, after they had purchased the physical equipment of an unincorporated business and moved that equipment into the Elgin plant of Chicago Metal. The Companies have the same executive officers, and employ the same director of personnel who manages the labor relations of both Companies. The executive offices of each of the Companies are in one building in Maywood, Illinois, and the operations of each Company at Elgin are in the same plant building separated only by a wire partition, although the plant office of each of the Companies is separately staffed and maintains separate records. Employees of both of the Companies at the Elgin plant use a common entrance way, the same toilet facilities, and the same cafeteria service.⁴ Apex Machine operates on two shifts each day which correspond to the day shift and early night shift of the three shifts operated by Chicago Metal each day. There is some transfer of production personnel from one Company to the other, and an employee on the pay roll of Chicago Metal does the repair work on machinery of Apex Machine. Insofar as there are comparable jobs, employees of each of the Companies receive comparable wages. They have the same vacation schedule. They work in the same physical environment, and work under similar systems of supervision, with ultimate responsibility for labor relations in the same director of personnel. In view of all the circumstances herein disclosed, we are of the opinion that the employees of the Companies together constitute an appropriate unit.⁵

We find that all employees of the Apex Machine Company and the Chicago Metal Hose Corporation employed at the Elgin plant of the Companies, excluding office and clerical employees, production engineering employees, cafeteria employees, guards and supervisory em-

employees of Apex Machine, and 64 by employees of Chicago Metal. There are approximately 220 employees in the unit claimed to be appropriate.

⁴ Operated within the plant by Chicago Metal.

⁵ See *Matter of Aaron Perer & Sons, Inc. and Wiping Materials, Inc.*, 53 N. L. R. B. 770, and cases cited therein.

ployees having authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action,⁶ 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 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

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Apex Machine Company, and Chicago Metal Hose Corporation, Elgin, 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 or not they desire to be represented by International Association of Machinists, District No. 108, A. F. of L., for the purposes of collective bargaining.

⁶ The parties agreed, and we find, that the following classifications fall within the above definition of supervisory employees; Apex Machine: plant superintendent, assistant plant superintendent, machine shop foreman, coupling department foreman, chief inspector, group leader (except Alfred Bauldauf who was conceded not to have such authority); and at Chicago Metal: plant superintendent, assistant plant superintendent, general foreman, shift foremen, chief engineer, chief electrician, chief inspector, shipping clerk.