

In the Matter of WESTERN CARTRIDGE CO., WINCHESTER REPEATING ARMS CO. DIVISION and UNITED ELECTRICAL, RADIO & MACHINE WORKERS OF AMERICA, CIO

In the Matter of WESTERN CARTRIDGE CO., WINCHESTER REPEATING ARMS CO. DIVISION and INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL B-90 (AFL)

Cases Nos. 1-R-1732 and 1-R-1804 respectively.—Decided May 6, 1944

Mr. Allan R. Seeserman, of Boston, Mass., for the Company.
David Scribner, by *Mr. Frederick R. Livingston*, of New York City; and *Mr. Joseph Caiazza*, of New Haven, Conn., for the U. E.
Mr. Francis X. Moore, of Putnam, Conn., and *Mr. Vincent J. McGovern*, of New Haven, Conn., for the I. B. E. W.
Mr. Robert E. Tillman, of counsel to the Board.

DECISION

DIRECTION OF ELECTION AND ORDER

STATEMENT OF THE CASE

Upon petitions duly filed by United Electrical, Radio & Machine Workers of America, CIO, herein called the U. E., and by International Brotherhood of Electrical Workers, Local B-90 (AFL), herein called the I. B. E. W., alleging that questions affecting commerce had arisen concerning the representation of employees of Western Cartridge Co., Winchester Repeating Arms Co. Division,¹ New Haven, Connecticut, herein called the Company, the National Labor Relations Board provided for an appropriate consolidated hearing upon due notice before John W. Coddair, Jr., Trial Examiner. Said hearing was held at New Haven, Connecticut, on March 23 and 30, 1944. The Company, the U. E., and I. B. E. W. appeared,

¹ In the formal papers in Case No. 1-R-1804, the Company is designated as "Western Cartridge Company." These papers are hereby amended to reflect the name of the Company as it is stated above.

participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. The rulings of the Trial Examiner 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:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Western Cartridge Co., Winchester Repeating Arms Co. Division, is a Delaware corporation engaged in the manufacture of ammunition, guns, and radiators at New Haven, Connecticut. During the year 1943, finished products valued at more than \$10,000,000 were shipped from the New Haven plant, of which approximately 95 percent was transported to points outside the State of Connecticut. Annually, approximately 90 percent of the raw materials used at the plant, consisting chiefly of copper, zinc, steel, and wood, is shipped there from points outside the State of Connecticut.

The Company admits that in its operations at New Haven, it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

United Electrical, Radio & Machine Workers of America is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

International Brotherhood of Electrical Workers, Local B-90, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTIONS CONCERNING REPRESENTATION

On December 22, 1943, the U. E. wrote a letter to the Company in which it requested recognition as the exclusive collective bargaining representative of the employees in the Company's rolling mill. The Company replied that it would not recognize the U. E. because the rolling mill was not an appropriate bargaining unit.

In 1942, the I. B. E. W. filed a petition for the same unit which it now seeks. This petition was subsequently withdrawn without prejudice. The Company takes the position that the unit sought by the I. B. E. W. is also inappropriate.

A statement of a Field Examiner of the Board, introduced into evidence at the hearing, indicates that each of the labor organizations

represents a substantial number of employees in the unit it contends to be appropriate.²

We find that questions affecting commerce have 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

A. *Contentions of the parties*

The U. E. and the I. B. E. W. contend for separate and distinct units. The U. E. seeks a unit of all production and maintenance workers in the rolling mill of the Company, excluding electrical maintenance employees, cupping machine operators, superintendents, foreman, assistant foremen, timekeepers, and factory clerical employees.

The I. B. E. W. petitions for a unit of all electrical maintenance employees of the Company.

As indicator heretofore, the Company contends that each of the proposed bargaining units is inappropriate. It takes the position that only a single plant-wide unit of production and maintenance employees is appropriate.

B. *The proposed unit of rolling mill employees*

The Company's New Haven plant consists of numerous buildings spread over an area of 85 acres. This area is systematically divided into tracts as though the abutting municipal streets had been projected thereupon. For purposes of convenient identification, each tract is given a letter designation, and each building located in the tract is numbered. The total number of employees of the Company is in excess of 9,000.

The Company's rolling mill department comprises its casting shop and its rolling mill, both of which are under one supervisor. The shop and the mill proper occupy separate buildings which are approximately 30 feet apart. There are 238 employees in the department, of

² The Field Examiner stated that the U. E. submitted to him 112 authorization cards, and that there were 160 employees in the unit it alleged to be appropriate. He also stated that the I. B. E. W. submitted 50 authorization cards, and that there were 60 employees in the unit it alleged to be appropriate.

At the hearing, the Company objected to the admission into evidence of the statement of the Field Examiner because it contains no information from the Company as to the number of employees in the proposed units and because no comparison was made of the names appearing on the cards with the names of the employees listed on a pay roll of the Company. We find no merit in either of the objections voiced by the Company. The record indicates that the actual number of employees in the alleged appropriate units corresponds with the number stated to be therein by the Field Examiner. With respect to the Company's second objection, it is to be noted that the evaluation of authorization cards is an administrative matter, wholly within the discretion of the Board, and not subject to either direct or collateral attack by the parties to a representation proceeding. See *Matter of American Finishing Company*, 54 N. L. R. B. 996.

whom approximately 160 work in the rolling mill proper. It is solely these latter employees that the U. E. is seeking to represent. General laborers work for both the casting shop and the rolling mill. The operations performed in the rolling mill proper represent an intermediate stage in the Company's initial production process. At the casting shop, heavy brass rods and slabs are cast. These go to the rolling mill proper where they are processed by being run several times through heavy rollers. Other operations in the rolling mill proper include annealing, milling, slitting the rolled rods lengthwise, and pickling or cleaning. The rough rods and slabs which enter the mill leave it ultimately in the form of coils which are sent to various sections of the plant for further processing, including additional milling, slitting, and pickling operations on a smaller scale.

The Company's entire plant, is under the direction of a Works Manager. Below him in rank are superintendents, general foremen, and foremen. The Works Manager formulates the labor policy for all divisions of the plant. Other indicia of the centralized control and management of the Company include a plant-wide maintenance department, a plant-wide plant-protection service, a plant-wide purchasing department, a plant-wide transportation department, a single employment office, a single pay-roll department, a central time-study department, and a central power and heating system.

The U. E. frankly states that it ultimately seeks a single plant-wide production and maintenance unit at the Company's plant, but has been successful to date only in organizing the employees of the rolling mill. The U. E. in effect, desires that we find a unit of the rolling mill employees to be appropriate at this time on the basis of the present extent of organization.

We are not persuaded that the record in this proceeding justifies an application of the extent of organization doctrine to the Company's rolling mill proper. The integrated character of the Company's enterprise and thus the final appropriateness of a plant-wide production and maintenance unit is not in dispute. Accordingly, the primary issue presented herein is whether the unit proposed by the U. E. is feasible for bargaining purposes under all the circumstances. We are convinced that it is not feasible. The number of production and maintenance employees in the proposed rolling mill unit constitutes less than 2 percent of the total number of production and maintenance employees whom the U. E. ultimately seeks to represent. A finding that the rolling mill employees constitute an appropriate unit could conceivably lead to continued piecemeal organization in which the Board might be asked to find another 50 units to be appropriate on the basis of extent of organization before the entire plant was organized. Moreover, the employees in the rolling mill proper do not even comprise a complete department in the Company's system.

Finally, while the Company has but one rolling mill, nevertheless most of the operations which are performed there on heavy rods are performed elsewhere on smaller metal parts, so that it cannot be said that the employees of the rolling mill, as a whole, have distinctive skills. This is further evidenced by the considerable number of transfers in and out of the rolling mill, many of which represent promotions for the transferees. For the above reasons, we find a unit of the Company's rolling mill employees to be inappropriate for bargaining purposes, and we shall, therefore, dismiss the petition of the U. E., filed in Case No. 1-R-1732.

C. The proposed unit of electrical maintenance employees

As stated above, the Company has a single plant-wide maintenance department. It is under the supervision of the superintendent of power and maintenance. The following classifications, among others, are found in the maintenance department: electrical employees, salvage employees, carpenters, painters, maçons, pipe fitters, tinnern, machinists, plant-protection employees, elevator operators, janitors, and garage men. The number of employees therein totals approximately 1,400.

The Company employs 54 maintenance electricians. They work throughout the plant maintaining electrical equipment. The record does not indicate whether or not they have a separate shop as their headquarters. They appear, however, to have their own foreman. While the electricians often work in conjunction with other maintenance employees, their work is clearly defined, and there is no substantial evidence to indicate that it is not confined to electrical maintenance work. We conclude, therefore, that the electrical maintenance employees comprise a readily identifiable and skilled craft group, the members of which may bargain collectively. The unit for which the I. B. E. W. petitions does not suffer from the infirmities of the unit sought by the U. E. in that it is plant-wide in its scope and includes all the employees of the classification sought to be represented.

We find that all electrical maintenance employees of the Company at its New Haven plant, excluding all supervisory employees with the 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 in Case No. 1-R-1804 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 therein.

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 Western Cartridge Co., Winchester Repeating Arms Co. Division, New Haven, Connecticut, 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 First 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 Brotherhood of Electrical Workers, Local B-90 (AFL), for the purposes of collective bargaining.

ORDER

On 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 Western Cartridge Co., Winchester Repeating Arms Co. Division, New Haven, Connecticut, filed by United Electrical, Radio & Machine Workers of America, CIO, be, and it hereby is, dismissed.