

In the Matter of CENTRAL TOOL AND DIE COMPANY and UNITED ELECTRICAL, RADIO AND MACHINE WORKERS OF AMERICA

*Case No. 9-R-1364.—Decided May 9, 1944*

*Mr. Joseph L. Lair*, of Dayton, Ohio, for the Company.

*Messrs. Henry Fiering and John Thomas*, of Dayton, Ohio, for the Union.

*Mr. Joseph Gubbins*, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon an amended petition duly filed by United Electrical, Radio and Machine Workers of America, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of the Central Tool and Die Company, Dayton, Ohio, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Allen Sinsheimer, Jr., Trial Examiner. Said hearing was held at Dayton, Ohio, on March 23, 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 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

Central Tool and Die Company is located at Dayton, Ohio, where it is engaged in the manufacturing of precision tools. Annually, the Company purchases raw materials valued in excess of \$18,000, approximately 10 percent of which is shipped to it from points outside the State of Ohio. The Company annually manufactures finished

products valued in excess of \$250,000, approximately 80 percent of which is 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 ORGANIZATION INVOLVED

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

## III. THE QUESTION CONCERNING REPRESENTATION

The Union has requested recognition of the Company as the collective bargaining representative for certain of its employees. The Company refuses to grant such recognition on the ground that the unit sought by the Union is inappropriate.

A statement of the Field Examiner, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found to be 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

The Union is petitioning for a unit comprised of all production and maintenance employees of the Company, including the janitor, the shipping clerk-carpenter, the crib attendant, and group leaders (other than those in the tool designing department), but excluding tool designers, guards, clerical, and supervisory employees. The Company agrees generally with the scope of the unit sought by the Union; however, it contends that tool designers and guards should be included in the unit.

The Company's principal operations are performed in its tool designing and tool making departments. The record discloses that the employees of the tool designing department, classified as tool designers, are located in a room segregating them from the remaining employees of the Company and are under separate supervision. The tool designers are engaged in planning, designing, and drafting special manufacturing tools. Technical training is required of such employees, and they receive a higher rate of pay than ordinary production and main-

<sup>1</sup> The Field Examiner reported that the Union submitted 21 authorization cards, all of which bear names of persons whose names are listed on a recently dated pay roll of the Company; there are approximately 45 employees in the unit alleged by the Union to be appropriate.

tenance employees. There is no interchange of employees between the tool designing department and other departments of the Company, and there has been no attempt by the Union to organize the tool designers. It is apparent that tool designers constitute a separate and distinct group, whose interests and duties are different from those of the production and maintenance employees.<sup>2</sup>

The Company employs 4 guards. They are neither militarized nor uniformed, but they carry arms. Their duties are those usually associated with plant-protection employees.<sup>3</sup> Since their duties and interests are different from those of the ordinary production and maintenance employees and the Union desires their exclusion, we shall exclude them from the unit.

There is a dispute over the status of employees Lester Basinger and Joe Wise. The Union urges their exclusion from the unit on the ground that they are supervisory employees, while the Company contends that they should be included for the reason that their authority is similar to that of the group leaders,<sup>4</sup> whom the parties have agreed to include. The record shows that Basinger is listed on the Company's pay roll as a machinist, that he actually performs the functions of a machinist, and that he assigns work to and supervises 4 machinists. He has no authority to hire or discharge the employees under his supervision, and his recommendations with respect to them are not acted upon until such recommendations are thoroughly investigated by his superiors. We find that Basinger is not a supervisory employee, and we shall include him in the unit.

With regard to Wise, the record shows that he is a tool inspector; that he inspects all finished products before shipment; that he has authority to reject defective work and to return such work to the responsible employee; and that on numerous occasions, he takes the place of the assistant general manager, who is the head of the tool making department. Although it does not appear that Wise has the authority to hire or discharge any of the employees in the tool making department, it does appear, however, that his recommendations as to such employees are sufficiently effective to cause a change in their working status. We find that Wise is a supervisory employee, and as such, we shall exclude him from the unit.

We find that all production and maintenance employees of the Company, including the janitor, the shipping clerk-carpenter, the crib attendant, and group leaders (other than those in the tool designing department), but excluding tool designers, guards, clerical employees, and all supervisory employees with authority to hire, pro-

<sup>2</sup> See *Matter of The McKinney Tool & Manufacturing Company*, 51 N. L. R. B. 1050.

<sup>3</sup> They also spend a small portion of their time firing the Company's boiler.

<sup>4</sup> From the record, it is clear that group leaders are not supervisory employees within the meaning of our customary definition.

mote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action,<sup>5</sup> 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 Central Tool and Die Company, Dayton, 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 Ninth 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 or not they desire to be represented by United Electrical Radio and Machine Workers of America, affiliated with the C. I. O.,<sup>6</sup> for the purposes of collective bargaining.

<sup>5</sup> Joe Wise, discussed above, Orville King, chief tool engineer, and L. O. Smith, assistant general manager, are supervisory employees and are excluded from the unit.

<sup>6</sup> The Union requested that it be designated on the ballot as its name appears above.