

In the Matter of KRAUTH & BENNINGHOFFEN and THE UNITED AUTOMOBILE, AIRCRAFT & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA (UAW-CIO), AMALGAMATED LOCAL 176

Case No. 9-R-1394.—Decided May 17, 1944

Mr. G. A. Diesbach, of Hamilton, Ohio, for the Company.

Mr. Bernard C. Wilderding, of Hamilton, Ohio, for the Union.

Mr. William Whitsett, of counsel, to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Automobile, Aircraft & Agricultural Implement Workers of America (UAW-CIO), Amalgamated Local 176, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Krauth & Benninghofen, Hamilton, Ohio, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Benjamin E. Cook, Trial Examiner. Said hearing was held at Hamilton, Ohio, on April 20, 1944. The Company and the Union 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 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

The Company, a partnership, is engaged at its plant in Hamilton, Ohio, in the manufacture and sale of radio parts and grenade adaptors. During the 12 months preceding the hearing, the Company purchased steel, brass, and aluminum, valued in excess of \$50,000, approximately 30 percent of which was shipped to the Com-

pany from points outside the State of Ohio. During the same period, its finished products were valued in excess of \$200,000, approximately 60 percent of which was sold and shipped to points outside the State.

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

II. THE ORGANIZATION INVOLVED

United Automobile, Aircraft & Agricultural Implement Workers of America (UAW-CIO), Amalgamated Local 176, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the Union as the exclusive bargaining representative of its employees until the Union has been certified by the Board in an appropriate unit.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found appropriate.¹

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 parties agree to a unit composed of all maintenance and production employees, including inspectors and set-up men, but excluding office workers, engineering department employees, salaried employees, chief inspectors, plant-protection employees, and foremen. The Union seeks the inclusion of plant clerks, while the Company seeks their exclusion. The record discloses that three such clerks are now employed; and that two work in the shipping department while one divides his time between the tool crib and the carpenter shop. The shipping clerks are engaged primarily in preparing packages for shipment. One of them on occasion goes into the superintendent's office to consult records. This is, however, only incidental to the main job which is a manual one. There is no personal or other contact with office workers. We shall, therefore, include them in the unit.

We find that all production and maintenance employees, including inspectors, set-up men, and plant clerks, but excluding office workers, engineering department employees, salaried employees, chief inspec-

¹ The Field Examiner reported that the Union submitted 59 cards all of which bore apparently genuine original signatures; that 50 cards were dated since February 1, 1944; and that there are 73 employees in the appropriate unit.

tors, plant-protection employees, foremen, and all 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 Krauth & Benninghofen, Hamilton, 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 the 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 Amalgamated Local 176, International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, affiliated with the C. I. O., for the purposes of collective bargaining.

CHAIRMAN MILLIS took no part in the consideration of the above Decision and Direction of Election.