

In the Matter of THE ACME MACHINE TOOL COMPANY and UNITED
CONSTRUCTION WORKERS, U. M. W. A.

Case No. 9-R-1362.—Decided May 18, 1944

Mr. James C. Manley, of Cincinnati, Ohio, for the Company.

Mr. Stanley Denlinger and *Mr. George B. Rice*, of Cincinnati, Ohio,
for the Union.

Mr. William Strong, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Construction Workers, U. M. W. A., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of The Acme Machine Tool Company, Cincinnati, 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 Cincinnati, Ohio, on April 15, 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, an Ohio corporation, has its only place of business in Cincinnati, Ohio, where the Company is engaged in the manufacture of turret lathes for the United States Armed Forces. Within the past 12 months, the Company purchased raw materials valued in excess of \$2,000,000, approximately 90 percent of which was shipped into the State of Ohio from points outside the State. The Company's

sales of finished products during the same period amounted to over \$3,000,000, approximately 90 percent of which was 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 Construction Workers, United Mine Workers of America, 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 certain employees of the Company, on the ground that there is a present contract between the Company and the United Acme Workers' Association concerning the employees in question. The contract in question, executed on June 10, 1943, expires on June 10, 1944. The United Acme Workers' Association formally dissolved on February 13, 1944, and duly notified the Company of that fact. We find that the contract does not constitute a bar to a present investigation of representatives.

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

We find, in substantial agreement with a stipulation of the parties, that all production and maintenance employees of the Company, excluding administrative employees, engineering department employees, shipping, office and clerical employees, watchmen, cleaning women, expediter, foremen, and 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.

¹The Field Examiner reported that the Union submitted 140 authorization cards all of which bore apparently genuine original signature, and that there are 153 employees in the appropriate unit.

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 The Acme Machine Tool Company, Cincinnati, 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 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 United Construction Workers, U. M. W. A., for the purposes of collective bargaining.