

In the Matter of NATIONAL LEAD COMPANY, CARTER PLANT and UNITED
FARM EQUIPMENT AND METAL WORKERS OF AMERICA, C. I. O.

Case No. 13-R-2388.—Decided May 31, 1944

Mr. J. F. Board, of Chicago, Ill., for the Company.

Mr. H. E. Baker, of Chicago, Ill., for the C. I. O.

Mr. John L. Reano, of Chicago, Ill., for District 50.

Mr. Louis Cokin, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by United Farm Equipment and Metal Workers of America, C. I. O., herein called the C. I. O., alleging that a question affecting commerce had arisen concerning the representation of employees of National Lead Company, Carter Plant, Chicago, Illinois, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Russell Packard, Trial Examiner. Said hearing was held at Chicago, Illinois, on May 3, 1944. At the commencement of the hearing, the Trial Examiner granted a motion of District 50, United Mine Workers of America, Local 12245, herein called District 50, to intervene. The Company, the C. I. O., and District 50 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

National Lead Company is a New Jersey corporation engaged in the sale and manufacture of white lead and related products. We are

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here concerned with its Carter Plant at Chicago, Illinois. During 1943 raw materials and finished products valued in excess of \$1,000,000 were transported to or from the Carter Plant in interstate commerce.

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

II. THE ORGANIZATIONS INVOLVED

United Farm Equipment and Metal Workers of America is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

District 50, United Mine Workers of America, Local 12245, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On March 22, 1944, the C. I. O. requested the Company to recognize it as the exclusive collective bargaining representative of the Company's employees. The Company refused this request.

On August 1, 1941, and August 27, 1942, respectively, the Company and District 50 entered into an exclusive bargaining contract and a supplemental agreement. The contract, as supplemented, expired by its terms on December 31, 1943.

A statement of a Field Examiner of the Board, introduced into evidence at the hearing, indicates that the C. I. O. represents a substantial number of employees in the unit hereinafter found to be 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 C. I. O. urges that all production and maintenance employees at the Carter Plant of the Company, including watchmen, but excluding office and clerical employees, salaried employees, executives, and supervisors constitute an appropriate unit. The only controversy with respect to the unit concerns watchmen.

The Company employs four watchmen. The C. I. O. would include them in the unit while the Company and District 50 would exclude them. The watchmen are unarmed and perform only the

¹ The Field Examiner reported that the C. I. O. presented 50 application membership cards bearing names of persons on the March 25, 1944, pay roll of the Company. There are approximately 80 employees in the appropriate unit.

District 50 did not present any evidence of representation but relies upon its contract as evidence of its interest in the instant proceeding.

customary duties of watchmen. They have no duties relating to personnel or management. We shall include the watchmen in the unit.

We find that all production and maintenance employees at the Carter Plant of the Company, including watchmen, but excluding office and clerical employees, salaried employees, executives, and all 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 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 National Lead Company, Carter Plant, Chicago, 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 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 they desire to be represented by United Farm Equipment and Metal Workers of America, C. I. O., or by District 50, United Mine Workers of America, Local 12245, for the purposes of collective bargaining, or by neither.