

In the Matter of K. R. WILSON *and* INTERNATIONAL UNION, UNITED AUTOMOBILE, AIRCRAFT AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, C. I. O.

Case No. 3-R-796.—Decided June 15, 1944

Mr. George E. Strebel, of Buffalo, N. Y., for the Company.

Mr. George S. Wilson, of Buffalo, N. Y., for the Union.

Mr. Louis Cokin, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of K. R. Wilson, Arcade, New York, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Peter J. Crotty, Trial Examiner. Said hearing was held at Buffalo, New York, on May 19, 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

K. R. Wilson operates a plant at Arcade, New York, where he is engaged in the manufacture of hydraulic arbor presses and special tools for servicing auto equipment. During 1943 the Company pur-

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chased raw materials valued in excess of \$250,000, a substantial portion of which was shipped to it from points outside the State of New York. During the same period the Company manufactured products valued at about \$2,335,000, approximately 75 percent of which was shipped to points outside the State of New York.

The Company admits, for the purpose of this proceeding, that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company refuses to recognize the Union as the exclusive collective bargaining representative of its employees.

A statement of a Field Examiner of the Board, introduced into evidence at the hearing, indicates that the Union 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 Union urges that all production and maintenance employees of the Company, including shop production clerks, but excluding guards, watchmen, and supervisory, office, and clerical employees, constitute an appropriate unit. The only controversy with respect to the unit concerns guards and watchmen. The Company urges that they be included in the unit.

The Company employs two guards who are sworn auxiliary military police and in addition are deputized by the county of Wyoming, New York. In accordance with our usual practice, we shall exclude such employees from the unit. In addition, the Company employs nine watchmen who act as roundsmen and also perform manual labor around the plant on occasion. It appears that their duties are those normally performed by watchmen, rather than those performed by guards. We shall include the watchmen in the unit.

¹ The Field Examiner reported that the Union presented 122 authorization cards. There are approximately 203 employees in the appropriate unit

We find that all production and maintenance employees of the Company, including shop production clerks and watchmen, but excluding office and clerical employees, guards, 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 K. R. Wilson, Arcade, New York, 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 Third 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 International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.